

**Event Request Form for
Administrator E. Scott Pruitt**

U.S. Environmental Protection Agency

*To request the Administrator to attend and/or speak at your event, please complete
and submit the following form.*

Group: National Stripper Well Association

Name of Event: NSWA Annual Meeting

Date of Event: 3-23-17

Type of Event (banquet, lecture, panel discussion, etc.):

Energy Gala

Role of the Administrator:

Accepting Industry Leader Award

Approximate time will the Administrator's Remarks Begin (example 9:00 am):

8:30 PM

Expected length of the Administrator's remarks:

5 minutes

Will there be Q&A? If so, for how long and who from? Ex: press, attendees:

no

Event begins (example 9:00 am):

6:00 PM

Event ends (example 9:00 am):

10:00 PM

Event address (please include room name or number if applicable):

741 N. Phillips Ave, OKC, OK 73104 - ballroom

Will there be a hold room for the Administrator? (please include room name and/or number):

no

1st Floor

Please list the name and title of the individual who will introduce the Administrator:

Tim Charters, VP, NSWA

Approximate size of the audience. Please also include a brief description of the makeup of the audience (*attorneys, business owners, veterans, students etc.*):

200 - Oil & gas producers/vendors

Please indicate your request for the topic of the Administrator's remarks, if applicable:

Oil & gas - state of the industry

Please list any special guests, elected officials, or other dignitaries who are invited or are expected to attend:

N/A

Please list any other speakers at this event:

Darlene Wallace, Mike Cantrell

Is this event open to the media?:

no

Please list a point of contact for the day of the event, including a cell phone number and e-mail address for the contact:

Jamie Whitefield,

Ex. 6 - Personal Privacy

jwhitefield@nsa.us

If applicable, please list the name(s) and contact information of the person(s) who will greet the Administrator upon arrival, including a cell phone number and e-mail address for each contact:

Same

Please list any special information or directions, such as ongoing construction, specific points of entry, or parking instructions, about the event or location:

N/A

Please list below any other relevant information such as agendas, background information or other relevant information about the event. (*Information may also be attached and submitted with this form.*)

attached

Please include a contact number for the event location:

405-239-3900

Please indicate whether this event is held weekly, monthly or annually:

annually

Please indicate the attire for this event (*business, formal, casual, etc.*):

business

Please list any agencies, businesses, schools or universities, or other organizations that may be sponsoring or co-sponsoring this event:

N/A

Please provide the security contact if contracted or head of security for event location:

N/A

NSWA 2017 ANNUAL MEETING AGENDA

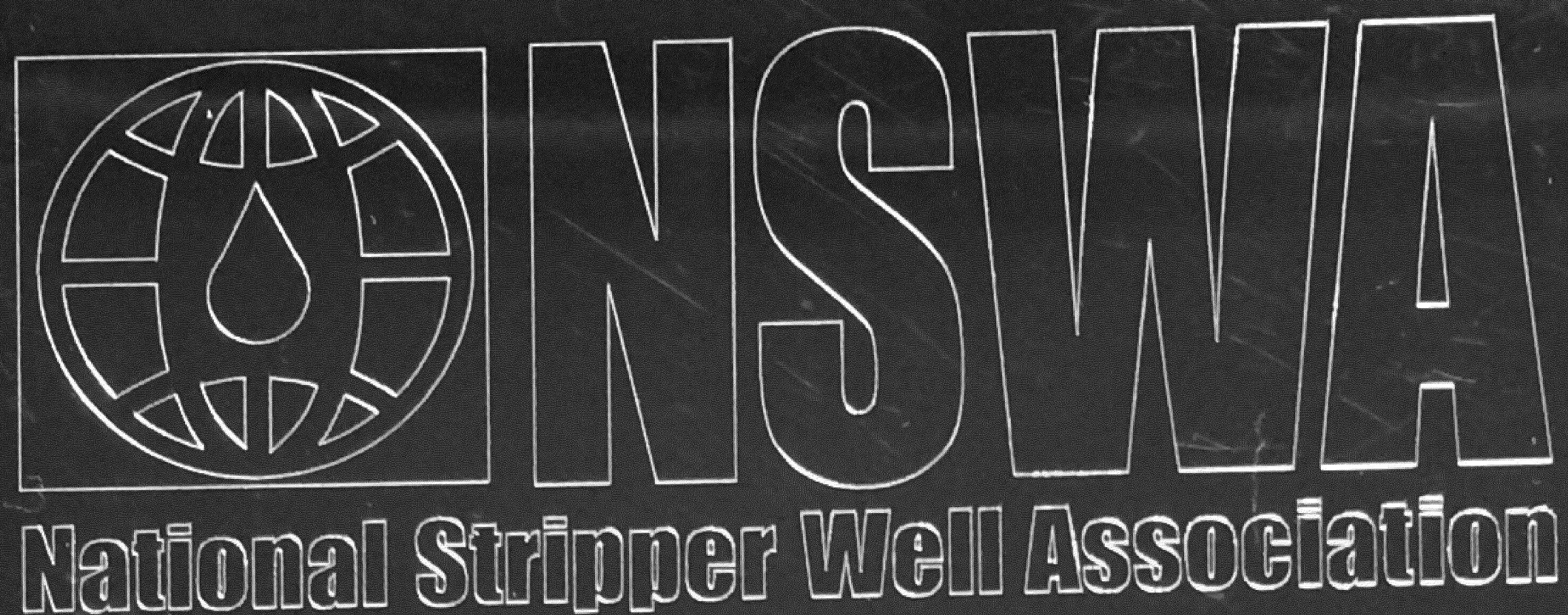
LONG TERM STRATEGIES FOR SURVIVAL

THURSDAY March 23, 2017

- 4:00PM** Exhibitor Set Up
East Foyer
- 4:00PM** NSWA Board of Directors Meeting
Embassy Suites Bricktown, Room O'Dono
- 6:00PM** Exhibits Hall Open
East Foyer
- 6:00PM** Happy Hour
Embassy Suites Bricktown Lobby
- 7:00PM** **11th Annual Energy Gala**
Room AB-Young
- 10:00PM** Exhibits Hall Closes

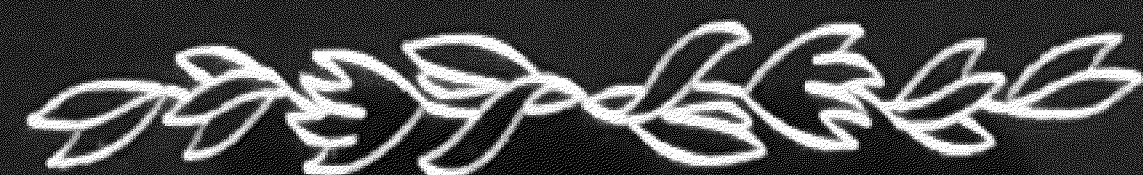
FRIDAY March 24, 2017

- 8:00AM** Exhibits Hall Open / Exhibitor Set Up
East Foyer
Exhibit Hall Open All Day
- 8:00AM** Registration
Continental breakfast provided in hotel lobby
- 9:00AM** **General Session I** "OUT-OF-THE-BOX" SITE MONITORING:
Laurent Brigidan, EXTERRA Monitoring SIMPLE, CHEAP, EFFECTIVE
- 9:20AM** **General Session II** ECONOMIC EXTRACTION OF LITHIUM
John Burba & Robert Miller, FROM CO-PRODUCED
NALithium/International Battery Metals OILFIELD BRINS
- 9:40AM** **General Session III** WELL SITE MONITORING TO
Greg Hall, WellCaddie IMPROVE REVENUE
- 10:00AM** **BREAK**
- 10:15AM** **General Session IV** PROFITS IN ALL PRICE REGIMES
Ceaser Chaves, Petrolog Automation, Inc.
- 10:55AM** **General Session V** INCREASING YOUR OUTPUT
Paul Munding, FLOGISTIX, LP
- 11:15AM** **Lunch**
Room C-Young
- 12:30PM** **General Session VI** TREE SIMPLE RULES TO MAKING A
Bruce Scambler, PLANE LOAD OF MONEY IN OIL &
CPA Tax Counselors GAS. IF I DID, YOU CAN.
- 12:50PM** **General Session VII** OKLAHOMA SEISMIC ACTIVITY UPDATE
Tom Robins, Deputy Secretary of Energy
- 1:10PM** **BREAK**
- 1:30PM** **General Session VIII** CRUDE OIL MARKETS
Kevin Styles, River Energy, LLC
- 1:50PM** **Panel Discussion** SURVIVAL STRATEGIES
Mike Cantrell, Patrick Montalban, Darlene Wallace
- 2:30PM** Annual Meeting Wrap-Up and Dismissal
Exhibit Booth BINGO Winner Announced



INDUSTRY LEADER
OF THE YEAR
2017

Presented to



*EPA ADMINISTRATOR
SCOTT PRUITT*



In Recognition of Your Outstanding
Dedication, Commitment and Personal
Leadership on Behalf of Our Country's
Oil and Natural Gas Industry

The White House
Office of the Press Secretary
For Immediate Release
January 28, 2017

Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

EXECUTIVE ORDER

- - - - -

ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political

party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

(l) "Government official" means any employee of the executive branch.

(m) "Lobbied" shall mean to have acted as a registered lobbyist.

(n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*

(o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.

(p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.

(q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.

(r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(t) "Participate" means to participate personally and substantially.

(u) "Pledge" means the ethics pledge set forth in section 1 of this order.

(v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

(y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/15/2017 5:26:00 PM
To: Duross, Jeanne [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1771ddaf869f40998535d410e5b1a93e-Jduross]
Subject: FW: Join us at the One Water Holiday Party!

Here's an acceptable event. See that there were a lot of invitees.

From: Fugh, Justina
Sent: Wednesday, November 15, 2017 12:25 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: RE: Join us at the One Water Holiday Party!

Hi Susan,

Yes, you may attend this event, which is not sponsored by a federally registered lobbyist. It will be attended by a large number of people representing a diversity of interests. It therefore qualifies as a widely attended gathering pursuant to 5 CFR 2635.204(g), and I determine that your attendance at this event furthers an agency interest. If you go, you will not need to report this gift of free attendance on your next financial disclosure report as its value will be below the reporting threshold. Please remember that you cannot ask EPA to reimburse you for any local travel expenses to go to or park at this event.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Bodine, Susan
Sent: Wednesday, November 15, 2017 12:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Join us at the One Water Holiday Party!

I am looking for confirmation that this meets the WAG test.

From: Tracy Mehan [mailto:tmehan@awwa.org]
Sent: Wednesday, November 15, 2017 10:34 AM
To:

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Grevatt, Peter <Grevatt.Peter@epa.gov>; Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Corr, Elizabeth <Corr.Elizabeth@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Mclain, Jennifer <Mclain.Jennifer@epa.gov>; Dorfman, Jordan <Dorfman.Jordan@epa.gov>; Jernberg, Jorianne <jernberg.jorianne@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>; Ames, George <Ames.George@epa.gov>; Shanaghan, Peter <Shanaghan.Peter@epa.gov>; Covington, John <covington.john@epa.gov>

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Forsgren, Lee <Forsgren.Lee@epa.gov>;

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Bodine, Susan <bodine.susan@epa.gov>; Dravis, Samantha
<dravis.samantha@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>;

Ex. 6 - Personal Privacy

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Shapiro, Mike <Shapiro.Mike@epa.gov>; Hall, Lynda <Hall.Lynda@epa.gov>; Goodin,
John <Goodin.John@epa.gov>; Flahive, Katie <Flahive.Katie@epa.gov>;

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Subject: FW: Join us at the One Water Holiday Party!

Come one, come all.

Tracy

From: Adam Krantz [<mailto:AKrantz@nacwa.org>]

Sent: Wednesday, November 15, 2017 10:16 AM

To: Tracy Mehan <tmehan@awwa.org>

Subject: Fwd: Join us at the One Water Holiday Party!

!

Tracy - please make sure you forward to your DC contacts - all DC-based AWWA staff should come too.
Appreciate your support - will be a fun event.

Please join us for the annual

One Water Holiday Party

Monday, December 11, 2017

6:00 pm – 8:30 pm

Old Ebbitt Grill Atrium
675 15th St. NW | Washington, DC

Please RSVP here or to sbaker@nacwa.org by December 1st

This event is co-hosted by the following organizations



National Association of Clean Water Agencies
1816 Jefferson Place, NW, Washington, DC 20036, (202) 833-2672
www.nacwa.org

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American Water Works Association
Dedicated to the World's Most Important Resource ®

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/21/2017 3:55:37 PM
To: Richardson, RobinH [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fa5c9eb65dc497c81a8dc9ccdb1ffa7-Richardson, RobinH]
Subject: is this what you wanted to discuss? FW: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017
Attachments: paper ET blank form.pdf

Shannon Griffo thought that this might be why you reached out to us last week. If so, here's what I sent to Ken Wagner (ignore the part about his 278 ... although it turns out that the fault was mine because I neglected to push the questions out to him. Too many balls in the air!).

If you wanted to talk about something else, please give a shout!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, August 18, 2017 2:23 PM
To: Wagner, Kenneth <wagner.kenneth@epa.gov>
Subject: RE: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017

Hi Ken,
Yes, you can attend the event, but you will need to get ethics approval for the room and the meal. Do you know how to do that electronically? If not, then fill out the attached form and pdf it to me so that I can enter the information for you and approve it. But I really really need you to finish your financial disclosure report! I returned it to you through INTEGRITY on 7/26 with a bunch of questions. I'll put those questions into an email and push that out to you again now.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wagner, Kenneth
Sent: Friday, August 18, 2017 6:46 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Fwd: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017

Justina:

Hope you are well. This invite just came to me as well as the opportunity to speak on the 31st. The original invite was for the Administrator who will be on travel in Australia, so they really wanted a speaker and settled for the B-team.!

Anyway, I believe they will pay for my room as they have made the reservation at the Greenbrier...so there's the room and the dinner. I am told that I will be seated with Senator Moore-Capito

Let me know what issues exist....Thanks as always for your help.

Ken

Kenneth E. Wagner
Senior Advisor to the Administrator
For Regional & State Affairs
US Environmental Protection Agency
Office: 202-564-1988
Cell: 202-309-2418
wagner.kenneth@epa.gov

Begin forwarded message:

From: Steve Roberts <sroberts@wvchamber.com>
Date: August 18, 2017 at 6:35:45 AM PDT
To: "wagner.kenneth@epa.gov" <wagner.kenneth@epa.gov>
Subject: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017

Dear Mr. Wagner,

Thank you for being a part of the West Virginia Chamber's 2017 Annual Meeting and Business Summit. We are so pleased to have you joining the 81st annual gathering of West Virginia leaders.

As our honored guest, we would like to invite you to join us for a special dinner to meet our Board and major sponsors. This invitation only event is held at the beautiful Howard's Creek Lodge. It will be a fun filled evening with the pleasant company of friends. We look forward to you joining us. Please RSVP to [Kathy Thomas](#) at your earliest convenience. Shuttles will begin departing the North Entrance following Vice President Pence's remarks in Colonial Hall.

This meeting, much like our state, is exciting, dynamic and growing! Thank you again for your participation! I hope you can join us for us for this special occasion on Wednesday evening.



The West Virginia Chamber of Commerce
cordially invites you
to attend an invitation only

Major Sponsors Dinner

Wednesday, August 30, 2017

7:45 p.m.

Howard's Creek Lodge

Shuttles to begin departing from North Entrance at
7:30 p.m.

Please RSVP to Kathy Thomas at
kthomas@wvchamber.com



Steve Roberts

1624 Kanawha Blvd. East
Charleston, WV 25311

main: 304-342-1115 • fax: 304-342-1130
sroberts@wvchamber.com • www.wvchamber.com

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New Form

<<< Status

Traveler Information (click here to open/close)

**EPA**Approval to Accept Travel
Under Ethics Reform Act of 1989

Event Location

Traveler's Role ⓘ

☐ Official Duty ☐ Outside Activity

Travel Starts

Travel Ends

Event Sponsor(s)

Purpose of Event ⓘ

ⓘ

DEO or designee

Employee Name ⓘ

Spousal expenses
included?
☐ Yes ☒ No

Title

Organization

Phone Number

Who is the non-federal person(s) or entity(s) paying travel expenses? ⓘ

Name of Organization:

Address:

What kind of entity is this? ⓘ

- ☐ for-profit ☐ state/local government ☐ College/University
☐ not for-profit ☐ foreign government ☐ Other (explain below)

Describe the entity (source) paying travel expenses. If the source of the travel expenses is an organization, describe the membership of the organization. For example, the "Center for Sound Science" may be largely made up of companies which produce chemicals regulated by your program or interest groups who take a position on our policies or regulations. (You can attach files below.)

do not omit this explanation!!!!

Is this source a party to a matter that is pending before you for decision, such as a contract or assistance agreement matter, permit, license, etc.? *If "Yes", then acceptance of travel expenses cannot be approved*

☐ Yes ☐ No

Is this source paying the travel through an EPA contract, Federal assistance agreement OR FEDERAL GRANT (including a recipient's matching share)? *If "Yes", then acceptance of travel expenses cannot be approved* ⓘ

☐ Yes ☐ No

Is this source otherwise affected by EPA matters in which you participate?

☐ Yes ☐ No

If "Yes," describe the matter and attach explanation (below). ⓘ

Itemization of benefits ⓘ

Amount & METHOD of payment ⓘ

	IN KIND ticket, meals etc., est. the \$	IN CASH must be a check etc. made out to EPA
Common carrier transportation	\$0.00	\$0.00
Meals	\$0.00	\$0.00
Lodging	\$0.00	\$0.00
Local transportation	\$0.00	\$0.00
Waiver of fees ⓘ	\$0.00	\$0.00
Other (specify)	<u>\$0.00</u>	<u>\$0.00</u>
Sub Total	\$0.00	Sub Total \$0.00

TOTAL →→→→→ \$0.00

(NOTE: For travel outside the United States, different rules may apply. Check with your ethics advisor.)

Does this amount exceed the amount payable under Federal Travel Regulations?

(see <http://www.gsa.gov> for per diem rates)

☐ Yes ☒ No

Any other explanations or attachments ⓘ

Traveler's Certification

By: ⓘ

Date:

To: Jennie Keith[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Fri 3/24/2017 7:03:37 PM
Subject: FW: Acypl event

Here's that event that I wanted to talk to you about.

-----Original Message-----

From: Hupp, Sydney
Sent: Monday, March 20, 2017 10:42 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Acypl event

Response I received:

We haven't finalized the actual award yet, but it's usually a globe with his name engraved and it will not be a sit-down dinner, just a reception with passed appetizers. If you have any other questions, just let me know.

Thanks!!

-----Original Message-----

From: Fugh, Justina
Sent: Friday, March 17, 2017 12:37 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: FW: Acypl event

Hi there,

Well, the ACYPL is not itself a partisan organization, so I don't have to worry about the Hatch Act. It's also not a federally registered lobbyist, but I noticed that the reception will be held at DLA Piper, which is definitely a federally registered lobbyist. The invitation suggests that the Administrator will receive an award, so I would like to know what sort of award it is. Do you know? Also, is this really just a reception or is there a meal as well?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Hupp, Sydney
Sent: Friday, March 17, 2017 9:32 AM
To: Hupp, Millan <hupp.millan@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Acypl event

Good morning-- sending this on for ethics approval and to get into the hopper for the next scheduling meeting.

Thanks all!!

-----Original Message-----

From: Smotkin, Rick [mailto:Rick_Smotkin@Comcast.com]

Sent: Thursday, March 16, 2017 4:10 PM

To: Hupp, Sydney <hupp.sydney@epa.gov>

Subject: Acypl event

Here you go. Let me know if you need anything else. Thanks so much !!!

Rick

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/15/2017 1:43:25 AM
To: Benevento, Douglas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=93dba0f4f0fc41c091499009a2676f89-Benevento,]
CC: Ross, Margaret [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38caf91847dd4f95810c1f96d918871c-Ross, Margaret]
Subject: RE: UPDATE

Oh, so sorry that your team was beaten by USC! I tend to think of a certain Dallas football team and a New York baseball team in those same terms! Alas, we must chalk up the experience to something akin to paying for really bad service!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Benevento, Douglas
Sent: Tuesday, November 14, 2017 11:45 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Ross, Margaret <Ross.Margaret@epa.gov>
Subject: RE: UPDATE

Thanks all. Because I was paying I didn't follow up. I paid face value for the ticket that Ex. 6 - Personal Privacy wanted to give me instead of exploring if I could take it as a gift. I think I overthought it, because I was paying for something offered as I gift I thought maybe there could be an issue. Then I thought why would it matter how the University of Colorado gets paid for a ticket.

In any event I assume there is no ethics loophole that would allow me to ask for my \$75 back because my team got thumped by the evil empire (aka, the University of Southern California)?

From: Fugh, Justina
Sent: Monday, November 13, 2017 3:49 PM
To: Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Ross, Margaret <Ross.Margaret@epa.gov>
Subject: UPDATE

Hi Doug,

Margaret clarified that you wondered whether you may pay the face value of the ticket instead. That is permissible as well. If you pay for the item, then it's obviously not a gift at all.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Sunday, November 12, 2017 10:21 PM
To: Benevento, Douglas <benevento.douglas@epa.gov>
Cc: Ross, Margaret <Ross.Margaret@epa.gov>
Subject: closing the loop

Hi Doug,

Margaret Ross mentioned to me last week that you had a question about whether you could accept tickets to a sporting event from a personal friend. I completely forgot about answering you until now (when I'm watching the Denver Broncos game, which made me think about Denver, then Region 8 ...). This note confirms that you may accept the gift of the free ticket because it's a long standing personal relationship. Even if your friend works for a federally registered lobbyist, if there is an established relationship that is based on your friendship, then we aren't worried. There is an exception, even for the lobbyist gift ban, for personal friendships. But if the total value of gifts received from this same friend is more than \$390, then you will have to report them as a gift on your next financial disclosure report (that you will file by May 15, 2018). For the reporting aggregation purposes, you can disregard any individual gift of \$156 or less.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/8/2017 5:34:06 PM
To: Ford, Hayley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4748a9029cf74453a20ee8ac9527830c-Ford, Hayle]
CC: Keith, Jennie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=79c2d25e4dfe45ceaf788a87f714cc0f-JKEITH]; Duross, Jeanne [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1771ddaf869f40998535d410e5b1a93e-Jduross]
Subject: RE: Ethics Request: G-7 Chamber Meeting

Hayley,

Jennie Keith has issued an impartiality determination to permit me to render advice with respect to invitation. Yes, the Administrator may participate, but please note that the US Chamber of Commerce is a federally registered lobbyist. This means that the Administrator cannot accept any gifts from them AT ALL (not a pen, a little airplane, a t-shirt, etc.). Because anything they give him will have to be returned, it's best to alert them up front not to give him any gifts.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ford, Hayley
Sent: Thursday, September 07, 2017 4:06 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Ethics Request: G-7 Chamber Meeting

That's fine, thanks for letting me know!

Hayley Ford

Deputy White House Liaison
Office of the Administrator
Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

From: Fugh, Justina
Sent: Thursday, September 7, 2017 4:05 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Ethics Request: G-7 Chamber Meeting

Hayley,

Ex. 6 - Personal Privacy

but I won't be able to connect with anyone until Monday. So you won't get a response until then.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ford, Hayley
Sent: Thursday, September 07, 2017 3:13 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Ethics Request: G-7 Chamber Meeting

Another! Thanks!

Hayley Ford
Deputy White House Liaison
Office of the Administrator
Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 2/25/2017 3:07:50 AM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: follow up to our meeting earlier today
Attachments: Draft refusal for review.docx; P45 Ethics Pledge blank.pdf; P45 Executive Order.pdf; Agency gift acceptance authorities.pdf

Hi there,

Thanks for meeting with Kevin and me for your initial ethics briefing. We covered a lot of material with you, Michelle Hale and the Administrator in that one meeting, so here is a summary for our mutual reference.

Draft refusal for the Administrator

Ex. 5 - Deliberative Process

Signing the ethics pledge

I forgot to ask you to sign the pledge, so can you please do that? I've attached a blank form here, but I could bring one to you next week if you'd rather.

Upcoming partisan event – RAGA dinner

Mr. Pruitt has been invited in his *personal capacity* to attend a dinner hosted by the Republican Attorneys General Association (RAGA). Since the sponsor is a partisan political group as defined by the Hatch Act, he can't attend in his official EPA capacity, but we discussed the fact that he will not be giving an official speech at all. Instead, RAGA wants to honor him personally for his service to that organization over the years. We discussed the fact that RAGA could mention his new position as part of their send-off, but that he is not attending on behalf of EPA at all. The EPA protective detail can of course escort him and convey him in an EPA vehicle, but I will need to ensure that RAGA reimburses EPA for the actual local travel expense (which should not be much as the event is in DC).

Interactions with Oklahoma

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-
- ## Ex. 5 - Deliberative Process

EPA lacks agency-specific gift acceptance authority

Attached is a compilation of the gift acceptance authorities for other federal agencies, as of 2014.

That's it (I think). I hope you've enjoyed your first week at EPA!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/17/2018 3:01:27 PM
To: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]
Subject: RE: Two Questions - tight deadline
Attachments: Wehrum signed pledge.pdf

Hi John,

1) Attached is Bill's signed ethics pledge.

2)

Ex. 5 - Deliberative Process

JUSTINA:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Konkus, John
Sent: Friday, August 17, 2018 10:43 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Two Questions - tight deadline
Importance: High

Justina: Good morning. Can you help me with two items for the NYT deadline we're working on?

1) Can you please send me a copy of Bill Wehrum's signed Trump pledge?

2)

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you,

John Konkus
Environmental Protection Agency
Deputy Associate Administrator for Public Affairs
Mobile: (202) 365-9250



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.


Signature

11-14, 20 17
Date

William L. Wehrman
Print or type your full name (last, first, middle)

HOW TO REVIEW POLITICAL INVITATIONS IN ACCORDANCE WITH THE HATCH ACT

The Hatch Act, 5 USC §§ 7321-7326, regulates the political activities of federal employees in the Executive Branch of the Federal government. “Political activity” is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. Under the Hatch Act, most employees cannot participate in partisan political activity while on government time and in government facilities. However, this rule is different for PAS employees. This guidance will help you to know what the PAS employees *can* and *cannot* do.

Who is a PAS employee?

EPA has 14 PAS employees, who are **P**residential **A**ppointees confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What are all employees prohibited from doing under the Hatch Act?

There are several things that no employee, including PASers, should do:

- (1) Don’t use your official authority or influence to interfere with or affect an election. Don’t use your official title while participating in political activity and don’t use your authority to coerce anyone to participate in political activity. Importantly, you can’t solicit, accept or receive uncompensated volunteer services from any subordinate for any political purpose;
- (2) Don’t fundraise, even in your private capacity. You can’t even let your name be used as the host of fundraiser. You can’t solicit political contributions in a speech or address at a fundraiser, and you can’t let your official title be used in connection with a fundraiser. You also can’t solicit, accept or receive volunteer services from an EPA subordinate;
- (3) Don’t run for partisan public office (without first talking to your ethics official and telling us where you live. There are a few exceptions for certain localities); and
- (4) Don’t solicit or discourage political activity from any person who is doing business with the Agency. This includes any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending in your office. It also includes any person who is the subject of an investigation, audit or enforcement action in your office. For PAS employees, this description can include a lot of people!

How are PASers special under the Hatch Act?

Unlike most employees, EPA’s fourteen PASers can participate in political activity while on duty, on government premises, in a government vehicle, and while wearing the EPA badge. But only they can do so. The rest of the EPA employees, including Schedule Cs and non-career SESers cannot.

The “Secret Service” exception

In limited cases, the Hatch Act nevertheless allows staff to assist the PAS consistent with their official duty. For example, a security detail may accompany the Administrator, even to a political event, so long as he is providing security and not himself participating in the political activity. Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the Administrator is engaged in political activity or a mix of official and political activity.

But this exception should not be broadened to include speech writing or any “extra” voluntary service!

What happens if an EPA PAS is invited to a political event?

1) The Scheduling Staff for the PAS should **examine the invitation** to determine who issued the invitation to the PAS employee and whether it is indeed for a political event.

- Clues: is the invitation from a campaign committee to elect someone? Is the event called a “rally” or a “fundraiser” or does it use words like “get out the vote?”

2) The Scheduling Staff should **send a copy of the invitation to OGC-Ethics** for review and confirmation as to whether it is indeed a political event.

3) If the event is political, then the Scheduling Staff must do the following:

\$ send the requestor the EPA’s “ground rules” about political events

\$ ask questions about the event:

- who is the host of the event?
- are there any co-sponsors?
- where will the event be held?
- who are the anticipated invitees to the event?
- how many people are expected to attend?
- what is the anticipated role of the EPA PAS at the event?

\$ identify a contact person on the Scheduling Staff to work with OGC

\$ identify a contact person on the requestor’s staff to talk to OGC

\$ do not confirm attendance until the event is cleared, in writing (by email), by OGC

NOTE: An employee with Agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate so long as the group has not been specifically targeted as having matters before the employing office. 5 CFR 734.305.

- An example of a permitted activity: the Administrator may speak on behalf of a partisan candidate at a forum sponsored by the League of Women Voters that is expected to have more than 100 people attend. However, he cannot use his official title and cannot solicit funds for the candidate in his speech. He also should not say that the candidate is endorsed by the US EPA.

- An example of a prohibited activity: the Administrator will not be permitted to speak at an event that is sponsored by an environmental law firm for its clients to be held in the law firm's offices.
- OGC will examine closely where the event is to be held and the sponsors and hosts. Scrutiny will be applied to certain entities, including lobbying organizations, law firms, for-profit and not-for-profit entities that have an environmental focus, and trade associations.

4) If the event is cleared, then the Scheduling Staff can confirm attendance, subject to the EPA's ground rules. The Scheduling Staff should now:

- \$ obtain a list of all of the invitees and send that list to OGC
- \$ obtain copies of all of the invitations and send to OGC for review of the format
- \$ talk to the PAS travel coordinator and OGC about payment for any political travel
- \$ reaffirm to the PAS that s/he cannot accept any volunteer services, including speeches
- \$ provide the PAS with the EPA's ground rules as part of her/his briefing package



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

GROUND RULES FOR PARTICIPATION IN A POLITICAL EVENT

Your campaign has invited a Presidentially-Appointed and Senate-confirmed appointee of the U.S. Environmental Protection Agency to speak at your political event. The Hatch Act, 5 U.S.C. §§ 7321-7326, sets forth certain restrictions that this employee must follow. She cannot use her official authority to further political activity; cannot solicit, accept or receive political contributions; and cannot solicit or discourage the political participation of anyone who has business pending before the Agency.

We ask that you review our ground rules carefully and ensure that they are followed. Failure to follow these rules may result in withdrawal of any approval to allow our employee to speak at your event.

- You must provide EPA with a copy of the invitation and any other public communications regarding the event before you may distribute them so that our counsel can ensure compliance with federal rules.
- Once EPA agrees to the final version of the invitation or other public communications, you cannot make any subsequent changes to the text or format nor change the title of the electronic files.
- You must provide EPA with a complete description of the event, the proposed venue, any sponsors or affiliated entities, and a summary description of proposed invitees.
- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.
- When you issue your invitations, you will include this statement as part of the distribution:

PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 3/20/2017 3:36:41 PM
To: Hupp, Sydney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d50089ff1a5b4c83baa0160afe2c33cb-Hupp, Sydne]
CC: Hupp, Millan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=92cac7b684b64f90953b753a01bee0d5-Hupp, Milla]; Dickerson, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d0440d9f06994021827e0d0119126799-Dickerson,]; Keith, Jennie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=79c2d25e4dfe45ceaf788a87f714cc0f-JKEITH]
Subject: Re: Acypl event

Hi -

Ex. 6 - Personal Privacy

Justina

Sent from my iPhone

> On Mar 20, 2017, at 10:41 AM, Hupp, Sydney <hupp.sydney@epa.gov> wrote:
>
> Response I received:
>
> We haven't finalized the actual award yet, but it's usually a globe with his name engraved and it will not be a sit-down dinner, just a reception with passed appetizers. If you have any other questions, just let me know.
>
> Thanks!!
>
> -----Original Message-----
> From: Fugh, Justina
> Sent: Friday, March 17, 2017 12:37 PM
> To: Hupp, Sydney <hupp.sydney@epa.gov>
> Cc: Hupp, Millan <hupp.millan@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
> Subject: FW: Acypl event
>
> Hi there,
> Well, the ACYPL is not itself a partisan organization, so I don't have to worry about the Hatch Act. It's also not a federally registered lobbyist, but I noticed that the reception will be held at DLA Piper, which is definitely a federally registered lobbyist. The invitation suggests that the Administrator will receive an award, so I would like to know what sort of award it is. Do you know? Also, is this really just a reception or is there a meal as well?
> Justina
>
> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772
>
>
>
>
> -----Original Message-----
> From: Hupp, Sydney
> Sent: Friday, March 17, 2017 9:32 AM
> To: Hupp, Millan <hupp.millan@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
> Subject: FW: Acypl event
>
> Good morning-- sending this on for ethics approval and to get into the hopper for the next scheduling meeting.
>
> Thanks all!!!
>
> -----Original Message-----
> From: Smotkin, Rick [mailto:Rick_Smotkin@Comcast.com]
> Sent: Thursday, March 16, 2017 4:10 PM

> To: Hupp, Sydney <hupp.sydney@epa.gov>
> Subject: Acypl event
>
> Here you go. Let me know if you need anything else. Thanks so much I!!
>
> Rick
>

To: Ford, Hayley[ford.hayley@epa.gov]
Cc: Keith, Jennie[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 5:14:11 PM
Subject: RE: Appt request

Okay, got it. It's a business meeting (though one of the attendees knows the Administrator personally). Meeting is okay from ethics perspective, but no gifts.

From: Ford, Hayley
Sent: Thursday, September 07, 2017 2:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Appt request

Business matter: renewable fuels issue that the bio fuels board has asked me to work with him on. Do you need more info on this in order to approve the meeting?

Hayley Ford
Deputy White House Liaison
Office of the Administrator
Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

From: Fugh, Justina
Sent: Thursday, September 7, 2017 1:26 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Appt request

Hayley,
We have no idea what this meeting is about (business and personal?). Please note that, if the Administrator takes this meeting, then Mr. Allen is a federally registered lobbyist. Consequently, Administrator cannot accept any gifts from him in his official capacity. In fact, because the subject of this meeting is unclear, I advise him not to accept any gift at all, even if offered as a personal gift. Since I'll be advising that anything given to him will have to be returned, it's best to alert Mr. Allen up front not to come bearing gifts.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ford, Hayley
Sent: Thursday, September 07, 2017 12:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: FW: Appt request

Can you add this to our request list? Thank you!

Hayley Ford
Deputy White House Liaison

Office of the Administrator
Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

From: Bowman, Liz
Sent: Wednesday, September 6, 2017 3:30 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Subject: Fwd: Appt request

Sent from my iPhone
Begin forwarded message:

From: Terry Allen <tallen@fidelisgr.com>
Date: September 6, 2017 at 3:14:20 PM EDT
To: <Morris.Madeline@epa.gov>
Cc: Liz Bowman <bowman.liz@epa.gov>
Subject: Appt request

Ms. Morris:

Terry Allen here. I don't think we've met. I am a friend of Administrator Pruitt's from Okla that works here in DC. I ran his first race for Attorney General in Oklahoma. I'm also a registered lobbyist out here and have been for the last 17 years. I was chief of staff to Congressman Steve Largent when he was in the House. I also agreed, at Liz' request, to do an interview with PBS' Frontline in July regarding SP's background and our friendship.

I would like to come in to see Scott. Rather than ping him directly on his cell, I am sending this request through you as my visit is both personal and business related. I'd like to catch up with him, and I also need to visit with him privately on a renewable fuels issue that the bio fuels board has asked me to work with them on. The mtg would be just he and I (or anyone else he wants to sit in). I would be coming in alone.

Can we find a time in the next few weeks that work on his schedule? It could be after hours over dinner or before work over coffee if preferred.

I look forward to hearing from you.

Terry Allen
President
Fidelis Government Relations
202 271 0233

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Fugh, Justina
Sent: Fri 3/17/2017 7:40:30 PM
Subject: RE: March 31st Federalist Society Lunch

Fabulous! Looking forward to meeting you then!

From: Ferguson, Lincoln
Sent: Friday, March 17, 2017 3:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: March 31st Federalist Society Lunch

Unfortunately I have a meeting at 3:30 and 4:45...but we can shoot for next week!

From: Fugh, Justina
Sent: Friday, March 17, 2017 3:18 PM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: March 31st Federalist Society Lunch

Yes indeed, and Sharnett is going to set that up for us. There are some other people joining the Administration next week, so she was going to get something on my calendar for all of you. But if you're free today, we could do the initial ethics briefing today (it takes an hour, but it's not deadly, I promise).

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ferguson, Lincoln
Sent: Friday, March 17, 2017 3:06 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: March 31st Federalist Society Lunch

Thank you! Is there a formal training I need to go through at some point?

From: Fugh, Justina
Sent: Friday, March 17, 2017 2:58 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: March 31st Federalist Society Lunch

Hi,
The Federalist Society is not a federally registered lobbyist. The Administrator will be speaking, so he can accept the meal that is offered (as can a staffer who is attending with him).

LINCOLN – I haven't yet been able to go over the federal ethics rules with you, but if you're his speechwriter, then I wanted to mention a few points:

- In his official capacity, the Administrator can never engage in political activity, which is defined as activity directed at the success or failure of a political party, candidate for partisan political office, or political group
- He can never fundraise for any entity or person
- He should not endorse one entity over others

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Hupp, Sydney
Sent: Friday, March 17, 2017 2:27 PM
To: Hupp, Millan <hupp.millan@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: March 31st Federalist Society Lunch

Hey Millan, I can't see the form. Looping in Justina as I am not sure if this has been funneled through her yet or not.

Thanks!

From: Juli Nix [<mailto:juli.nix@fed-soc.org>]
Sent: Friday, March 17, 2017 2:00 PM
To: Hupp, Millan <hupp.millan@epa.gov>
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re: March 31st Federalist Society Lunch

Perfect, thanks!

Have a great weekend,

Juli

Juli A. Nix
Director, Conferences
The Federalist Society
1776 I Street, N.W.
Suite 300
Washington, D.C. 20006
202-810-8652--Direct Office
202-810-8653--Direct Fax

202-822-8138--Main Office
202-296-8061--Main Fax
www.fed-soc.org

On Fri, Mar 17, 2017 at 1:58 PM, Hupp, Millan <hupp.millan@epa.gov> wrote:

Thank you, Juli. I am copying the Administrator's Scheduler, Sydney Hupp, and his speechwriter, Lincoln Ferguson. They will both be good contacts for you and will find this information helpful. I will reach out to you some time next week to discuss logistics.

Thank you so much,
Millan

From: Juli Nix [<mailto:juli.nix@fed-soc.org>]
Sent: Friday, March 17, 2017 12:03 PM
To: Hupp, Millan <hupp.millan@epa.gov>
Subject: March 31st Federalist Society Lunch

Millan,

Thank you for taking the time to speak to me today. Please see the attached event form.

The lunch will be held at Tony Cheng's at 619 H Street in Chinatown (on the 3rd floor and there is no elevator). The event usually begins at 12:00 noon, with lunch being served. Usually, the speaker arrives at about 11:55 a.m., is seated at the head table, and has lunch before the address. Mr. Pruitt will be introduced at about 12:45 - 50 by our D.C. Chapter President, Doug Cox, of Gibson Dunn. Mr. Pruitt's address should last about 15 - 20 minutes; the address is usually followed by informal questions from the audience. This lunch is a more casual lunch than we usually do and the venue does not have microphones for the audience. The event ends no later than 1:30 p.m.

We will begin promotion for this event, as it is coming up in the next couple of weeks. Leonard Leo described the topic to me as "Reflections on the EPA and the Administration's Regulatory Agenda."

As discussed, we will not advertise this event directly to press, but sometimes they do hear about it and ask to come. We will let all press know that this event is not open to press and is off the record.

Please let me know what guest/staff Mr. Pruitt plans to bring to the lunch, just so we can be sure to reserve a seat. Please also let me know if any of Mr. Pruitt's guests should be seated at the head table with him. I ask this only because many times our speakers will bring a staffer who does not sit at the head table with them; he is more than welcome to have one guest seated with him at the head table.

If you have any further questions or concerns, please don't hesitate to contact me; I can be reached by email or at 202-810-8652. On the day of the event, I will be the contact person and can be reached at 202-810-8653 which is my cell.

Best,

Juli

Juli A. Nix
Director, Conferences
The Federalist Society
1776 I Street, N.W.
Suite 300
Washington, D.C. 20006
202-810-8652--Direct Office
202-810-8653--Direct Fax

202-822-8138--Main Office
202-296-8061--Main Fax
www.fed-soc.org

To: Morris, Madeline[morris.madeline@epa.gov]
Cc: Keith, Jennie[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Fri 6/30/2017 7:52:53 PM
Subject: RE: Ethics Approval Request

Hi there,
Thanks for your patience. EPA Ethics has no objections to this meeting as the Administrator will be giving a speech in his official capacity. That said, because this is a religious organization, I checked in with other attorneys in OGC who advise on the Establishment Clause of the US Constitution, which states “Congress shall make no law respecting an establishment of religion...” U.S. Const. amend. I. *(J *(JHowever, the Establishment Clause does not absolutely bar the government’s involvement with religious institutions. *See Lemon v. Kurtzman*, 403 U.S. 602, 612*(J-613 (1971); *Bowen v. Kendrick*, 487 U.S. 589, 610 (1988); *see also Agostini v. Felton*, 521 U.S. 203, 234 (1997)(altering the Establishment Clause standard announced in *Lemon*, 403 U.S. at 612-613). Rather, it prohibits the government from acting “with the purpose of advancing *(J *(Jor inhibiting religion...” *See Agostini*, 521 U.S. at 222*(J-23. Specifically, the Administrator’s participation in this event will not be deemed to violate the Establishment Clause if it does not “result in governmental indoctrination; define its recipients by reference to religion; or create an excessive entanglement.” *See id.* at 234. *(J *(JIn other words, the general rule is that the federal government will violate the Establishment Clause if it appears that the governmental action has the purpose or effect of promoting a particular religion. *County of Allegheny v. American Civil Liberties Union*, 492 US 573, 592*(J-94 (1989).

Set forth below are some reminders:

- We remind the Administrator to be cognizant of the fact that any information being shared him should be the same as is available to other organizations (religious and non-religious). Additionally, he should avoid the possibility of his participation in this activity as being viewed as favoring religion.
- The speech writers should avoid trying to incorporate any overtly religious text into the speech, so atheists or members of other religions will not be able to argue that the speech advances any religious interests.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Morris, Madeline
Sent: Tuesday, June 27, 2017 1:16 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Ethics Approval Request

Hi Justina,

Just looking for approval for the Administrator to speak at this event. Thanks!

Best,
Maddy

Madeline Morris Executive Scheduler | Office of the Administrator | direct: 202-564-0844 | cell: 202-579-4283

To: Hupp, Sydney[hupp.sydney@epa.gov]
Cc: Keith, Jennie[Keith.Jennie@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Davis, Gail[Davis.Gail@epa.gov]
From: Fugh, Justina
Sent: Fri 3/17/2017 7:16:26 PM
Subject: RE: Earth Day Texas - Scott Pruitt [WARNING: SPF validation failed]

Hi Sydney,

I noticed on their website at <http://earthdaytx.org/legal-symposium/> that the Administrator is already listed as the keynote speaker on Friday, April 21. I have no ethics issues if he speaks on that day, and can allow him to attend the events available to all participants on that same day. I would have to clear separately his attendance at any events that occur on the preceding day. Please note that the Administrator cannot them to give him a reception "in his honor," but we could probably allow him to attend a reception if we knew when it was and who was sponsoring it. And, if he wants, he could present the EPA's award to DFW.

I can't tell whether the organization is offering to pay for his hotel or not. We can't ask "hey, will you pay?" because we are never permitted to solicit a gift, either directly or indirectly, but we can say things like, "EPA does not have the travel resources to pay for this trip" and then stop talking. The sponsor may then suggest that they could pay, and we can then accept that offer. Am copying Gail Davis in case she needs to do an ethics travel form.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Hupp, Sydney
Sent: Friday, March 17, 2017 9:38 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Earth Day Texas - Scott Pruitt [WARNING: SPF validation failed]

Will you take a look at this please and tell me what you think from an ethics standpoint?

Thanks!
Sydney

From: Hale, Michelle
Sent: Friday, March 17, 2017 9:37 AM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Subject: FW: Earth Day Texas - Scott Pruitt [WARNING: SPF validation failed]

From: Bruce Fogerty [<mailto:bruce@earthdaytx.org>]
Sent: Thursday, March 9, 2017 6:38 PM
To: Hale, Michelle <hale.michelle@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Earth Day Texas - Scott Pruitt [WARNING: SPF validation failed]

Michelle,

I spoke with Sydney today and she requested I send you some information on Earth Day Texas.
I am copying RJ as we have been in contact by text.
We look forward to hosting Scott next month. We know it would be a positive experience for him and the EPA.

Trammell Crow (founder and my friend and business colleague of 30+ years) took over Earth Day Dallas six years ago. Trammell decided that the environment was an issue he wanted to put his time treasure and talent behind. He has taken it from twenty cardboard tables that had a few non-profits, Sierra Club etc, a back masseuse and crystal sellers to a serious free market business exposition and conference on the environment. It is now called Earth Day Texas, but we are talking the "Earth" out of our name next year and going to EARTHx.

We live by two mottos:

- Conservation has no party
- Let green drive black to the bottomline (smart green will do this over time)

Last year we had 130,000 visitors over our three day exhibition, almost 900 exhibitors and several hundred speakers.

Six thousand came out on our B to B day on Friday.

We take over the entire Texas State Fair for the event. Attached to this email is a brief sizzle reel that gives some perspective on its size, and yes, EVERYthing is bigger in Texas.

We are free market driven and work overtime to be a neutral public square for all ideas worth discussing.

This year the Mitchell Foundation is working with us to put on a day and a half conference on shale production.

Because of this the Sierra Club is boycotting us. We think natural gas is vital to our national security and industry.

Last year Avi Garbow (then chief counsel for the EPA) came and spoke. I put him up against an author I like Ron Bailey who wrote, *The End of Doom*.

Avi squirmed when he had to admit that a fossil fuel was in fact the #1 component of COP 21 plans for the united States.

Our exhibition runs for three days and our event for five.

Friday is our Business day and we have many activities

My number one goal is that he could keynote a lunch at our legal Symposium.

We will have 300 attorneys here for an all day program with many in house chief counsels as well. (attached)

This lunch is on Friday the 21st.

I would like to have him speak on co-operative federalism under the new administration.

He could touch on states rights, rule of law, due process or WHATEVER he wanted.

In the afternoon I would like to get him in front of various business leaders in a forum, possibly moderated by our friend Ken Starr or someone acceptable to Scott.

And then host a private reception for him.

He could speak at a banquet on Friday night with many business leaders attending as well, depending on his schedule and availability. We are flexible.

We also plan on hosting several Lt. Governors and possible governors and

ALEC is coming and bringing many state legislators. I would anticipate ten congressmen will attend. I also noticed this in the paper recently:

http://www.bizjournals.com/dallas/news/2017/03/03/dfw-airport-wins-epa-climate-leadership-award.html?ana=e_me_set1&s=scroll&ed=2017-03-03&u=%2FHfG8GZuqSk46mjF%2Fx9ICA00f4bd4d&t=1489091033&j=77541591

Possibly Scott would want to give the award in person to an exec from DFW.

All details can be worked out. We need to know Scott's availability and time schedule.

He can stay at the Anatole at the Reagan suite Thursday or Friday nights if needs to stay overnight.

It was built by the Crows for the 84 convention. I was on that planning committee.

We also could possibly host a breakfast at Crow Holding on Saturday.

I understand he has been to Old Parkland in a previous trip.

Please call me to discuss.

Trammell sends his best wishes as well.

Faith> BF

I made up slogans for all departments after the Trump victory.

For the EPA I wrote:
The environment as desired.
With enforcement as required;
Nothing less- Nothing more!



Bruce Fogerty
Business Development Executive
469.294.2065 (Office)
Ex. 6 - Personal Privacy (Mobile)
BRUCE@EARTHDAYTX.ORG
EARTHDAYTX.ORG

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 2/22/2017 2:48:47 AM
To: Davis, Gail [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3778a7cc1fa4f078f7c4b447c63e7c8-Gdavis04]
Subject: political event on 2/25/17
Attachments: HOW TO CALCULATE POLITICAL TRAVEL v2.doc

Hi Gail,

I understand that Scott Pruitt will be attending the Conservative Political Action Conference (CPAC) on February 25, 2017.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The agenda for the event is found at <http://cpac.conservative.org/agenda/> and he is scheduled to speak on Saturday at 1:15 pm.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**“POLITICAL” TRAVEL:
HOW TO CALCULATE AND COLLECT PAYMENT
ASSOCIATED WITH POLITICAL EVENTS**

Under the Hatch Act, 5 U.S.C. §§ 7321-7326, PAS appointees are permitted to participate in partisan political activity while on government time and in government facilities. However, they cannot use their EPA official authority, including titles, in connection with the political activity. They cannot fundraise and cannot directly solicit or discourage the political participation of any person who has business pending before EPA. They cannot direct subordinates to assist them nor can they accept the volunteer political activity services of subordinates. The Hatch Act prohibits use of federal appropriated dollars to pay for any travel costs associated with political activity. This guidance will help you to know what travel expenses EPA can – and cannot – cover.

Who is a PAS appointee?

EPA has 14 PAS positions, who are **Presidential Appointees** confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What is “political” travel?

As a general rule, travel by senior Administration officials is considered “political” if the primary purpose involves their positions as leaders of their political party. Travel is considered “political” when the PAS appointee is appearing at partisan political events, including conferences, political party functions, campaigning for specific candidates or attending a fundraiser (though never with reference to official position). For the purposes of this guidance, “political travel” includes local trips and trips beyond the 50-mile duty station radius. EPA funds cannot be used to pay for political travel.

Who pays for political travel?

In all cases, political travel must be paid for by the political entity.

What is not “political” travel?

Speeches to groups in support of Administration positions, whether or not related to environmental subjects, are generally considered “official” in nature. A speech before a non-partisan group, such as a Chamber of Commerce, is not partisan or political in nature if it contains no express advocacy and no direction that a particular political party’s candidates should be supported in an election campaign.

To what extent can non-PAS staff assist the PASer with political activity and travel?

Only PAS appointees can engage in political activity during normal duty hours or on government premises.

The Hatch Act permits EPA staff to provide services to the PAS appointee only to the extent that those services are ordinarily provided by them as part of their official duties and only so long as the work is purely official and not political in any way. For example, a security detail may

accompany the Administrator, even to political event, so long as the detail is providing security and not actually participating in the political activity. EPA must pay the security detail's travel.

Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the PAS employee is engaged in political activity or a mix of official and political activity. EPA staff may also prepare briefing materials associated with official Administration activities as part of their government duties, even if such materials might be included in partisan statements.

EPA staff may not, however, use duty time to prepare materials that will be used solely for "political" purposes, such as platform materials or other statements of "political" advocacy, nor can they volunteer their off-duty time to assist any EPA PAS official. The Hatch Act prohibits PAS employees from accepting volunteer political services from subordinates.

Who determines whether a trip is "political" or "official" in nature?

OGC/Ethics makes this determination. Among the factors that OGC will take into consideration are: (1) the sponsor of the event, (2) the group or organization being addressed, (3) other participants, and (4) whether the speech is partisan and political in nature or whether it is a factual presentation or defense of the Administration's position on the issues.

Can a trip contain both "political" and "official" elements?

Yes, but OGC/Ethics must work with the PASer's staff to apportion the costs between EPA and the political sponsor. EPA travel funds CANNOT be used for political travel!

How does EPA apportion the costs of a trip?

When events involve a mix of political and official travel, then OGC/Ethics works with the PASer's travel staff to identify all travel costs and applies the following "hard-time formula" to determine which costs are associated with political activity and which costs are associated with official duty:

Time spent in official meetings, receptions, etc.	+	Time spent in political meetings, receptions, rallies	=	Total activity time
<u>Time spent in official activity</u>			=	Percentage of trip that is official
Total activity time				
<u>Time spent in political activity</u>			=	Percentage of trip that is political
Total activity time				

EXAMPLE: A PAS employee travels to Chicago and spends 3 hours on official business in the regional office, and then spends 2 hours on political activity. EPA should pay 3/5ths of the total cost of the trip while the political sponsor pays 2/5ths of the total costs.

NOTE: In a presidential election, however, then the campaign will pay for ALL of the costs using the “hypothetical” formula instead of the “hard time” formula.

HELPFUL HINTS:

- ⇒ Do not apply the “hard time” allocation to expenses that are solely one type or another.
 - An expense to rent a sound system for a political event must be paid in its entirety by the political sponsor. Similarly, a registration fee to attend a conference in official capacity must be paid in its entirety by the Agency.
- ⇒ In allocating costs other than air travel (e.g., lodging or per diem), use the government maximum for that type of expense.
 - If a mixed trip is 50% official and 50% political, and the government per diem rate is \$140, then the maximum per diem expense chargeable to the government is 50% of \$140, not 50% of the actual cost.
- ⇒ Any questions should be resolved in favor of charging EPA less and the political sponsor more.

What is the process for seeking and receiving payment from a political sponsor?

- 1) The PAS travel coordinator and/or administrative staff must consult OGC/Ethics to determine whether the trip is political, official or mixed. This determination must be made by OGC/Ethics in writing.
- 2) OGC/Ethics verifies with the scheduling staff and the political sponsor that the political sponsor understands it will be paying for all political travel. A copy of this correspondence must be included in the official travel record.
- 3) EPA makes all travel arrangements, prepares the travel authorization (TA), and arranges for EPA to pay the travel expenses. In this way, the Agency maintains control over the PAS appointee’s schedule and ensures that s/he is eligible for city pair fares and the government rate, and gets refundable tickets in the event of a change in reservations.

The TA must include a statement that the PAS appointee is traveling for a political purpose or a mixed political purpose and that the political sponsor will be paying for all political travel expenses. In this way, EPA’s Finance Center is alerted to the fact that it will pay the PAS appointee for the travel using EPA funds, but that EPA will obtain reimbursement from a third-party. When the payment arrives, EPA will be able to accept the money directly. It will not need to go to the US Treasury for miscellaneous receipts.

4) The PAS travel coordinator, the PAS scheduling staff and OGC/Ethics review the planned itinerary to identify all politically-related travel costs and to approximate the time spent in

political activity. The PAS travel coordinator, in consultation with OGC/Ethics, prepares the “travel record” (Attachment A, pages 1 and 2, White House memorandum, “Guidelines for Allocating Travel Expenses of Senior Administration Officials, 2/17/94).

5) Upon return from the trip, the PAS employee provides all receipts to the PAS travel coordinator to prepare the travel voucher. The voucher must include a statement that the PAS employee traveled for a political purpose or a mixed political purpose and that the political sponsor will be paying for all political travel expenses.

6) OGC/Ethics calculates the political expenses. For mixed political and official trips, OGC/Ethics calculates the hard-time allocation. The PAS travel coordinator includes the completed “event worksheet” in the official travel record.

7) OGC/Ethics writes to the political sponsor for payment in the form of a check made out to US EPA. The check must be sent to the PAS travel coordinator. Upon receipt, the PAS travel coordinator verifies that the amount received is at least the same as the amount requested, then notifies OGC/Ethics that the reimbursement has arrived. The PAS travel coordinator writes the DCN number and TA number on the check and sends it to Finance so that the EPA travel budget can be reimbursed. A copy of the check must be included with the official travel record.

To: Johnson, Johahna[Johnson.Johahna@epa.gov]
Cc: Redden, Kenneth[Redden.Kenneth@epa.gov]; Goerke, Ariadne[Goerke.Ariadne@epa.gov]; Wulffen, Rebecca[Wulffen.Rebecca@epa.gov]
From: Fugh, Justina
Sent: Fri 6/30/2017 7:45:42 PM
Subject: RE: who does establishment clause work for you?

Thanks! Your prudential reminder is exactly what I wanted to know.
Happy Fourth,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Johnson, Johahna
Sent: Friday, June 30, 2017 1:14 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Redden, Kenneth <Redden.Kenneth@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Wulffen, Rebecca <Wulffen.Rebecca@epa.gov>
Subject: FW: who does establishment clause work for you?

Hi Justina,

Ex. 5 - Deliberative Process

The Establishment Clause states “Congress shall make no law respecting an establishment of religion...” U.S. Const. amend. I. The Establishment Clause however does not absolutely bar the government’s involvement with religious institutions. *See Lemon v. Kurtzman*, 403 U.S. 602, 612-613 (1971); *Bowen v. Kendrick*, 487 U.S. 589, 610 (1988); *see also Agostini v. Felton*, 521 U.S. 203, 234 (1997)(altering the Establishment Clause standard announced in *Lemon*, 403 U.S. at 612-613). Rather, the Establishment Clause prohibits the government from acting “with the purpose of advancing or inhibiting religion...” *See Agostini*, 521 U.S. at 222-23. Specifically, the government program or action does not violate the Establishment Clause if it does not “result in governmental indoctrination; define its recipients by reference to religion; or create an excessive entanglement.” *See id.* at 234. In other words, the general rule is that the federal government will violate the Establishment Clause if it appears that the governmental action has the purpose or effect of promoting a particular religion. *County of Allegheny v. American Civil Liberties Union*, 492 US 573, 592-94 (1989).

Ex. 5 - Deliberative Process

If you have any questions or would like to discuss further, please do not hesitate to contact our office.

Thank you,

Johahna Johnson
Civil Rights and Finance Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-6119

Begin forwarded message:

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: June 27, 2017 at 5:43:33 PM EDT
To: "Redden, Kenneth" <Redden.Kenneth@epa.gov>
Subject: who does establishment clause work for you?

Hi,

Ex. 5 - Deliberative Process

Any ideas?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North,
William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) |
phone 202-564-1786 | fax 202-564-1772

From: Morris, Madeline
Sent: Tuesday, June 27, 2017 1:16 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Ethics Approval Request

Hi Justina,

Just looking for approval for the Administrator to speak at this event. Thanks!

Best,
Maddy

Madeline Morris Executive Scheduler | Office of the Administrator | direct: 202-564-0844 | cell: 202-579-4283

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 2/16/2017 1:08:31 AM
To: Jackson, Ryan (Inhofe) [Ryan_Jackson@inhofe.senate.gov]
Subject: RE: Pruitt at CPAC

Hi,

Ex. 5 - Deliberative Process

With respect to an Administrator's trips and events, the ethics office is involved in the following ways:

- The Scheduling Office coordinates the Administrator's invitations with us so that we can ascertain whether a trip or event involves any possible gift, such as free attendance, award, food, reception, ride, charter, etc. Where a gift is offered, we ascertain whether any authority allows acceptance and assist in appropriately documenting the gift and its disposition. Because EPA lacks agency gift acceptance authority, we help ensure that he doesn't inadvertently accept prohibited gifts under the ethics regulations or under Executive Order 13,770 (which includes a lobbying gift ban); and
- If a trip or event is political in nature, then we provide advice on the Hatch Act, calculate the billing, and ensure that the political entity pays its expenses. When I correspond with the political entities, I do write an actual letter and keep copies.

Does that answer your question?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan (Inhofe) [mailto:Ryan_Jackson@inhofe.senate.gov]
Sent: Wednesday, February 15, 2017 12:25 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Pruitt at CPAC

Justina, thank you for your emails. I understand the terms of this event. It was helpful.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks again for all the extra time on this. Starting off anywhere is always overly time consuming but important to be sure.

Ryan Jackson
Chief of Staff
U.S. Senator James M. Inhofe
205 Russell Senate Office Bldg.
Washington, D.C. 20510
(202) 224-4721

On Feb 14, 2017, at 5:42 PM, Jackson, Ryan (Inhofe) <Ryan_Jackson@inhofe.senate.gov> wrote:

I will continue to do that, and thank you again for the conversation the other night.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Fugh, Justina [<mailto:Fugh.Justina@epa.gov>]
Sent: Tuesday, February 14, 2017 2:50 PM
To: Jackson, Ryan (Inhofe) <Ryan_Jackson@inhofe.senate.gov>
Subject: FW: Pruitt at CPAC

Hi there,
Thanks for the inquiry! Let's see if I can help clear things up:

CPAC is not a charitable organization

- The Conservative Political Action Conference (CPAC) is organized annually by the American Conservative Union (ACU). ACU does have an affiliated entity, the ACU Foundation, that is a 501(c)(3), but that foundation is not the entity that organizes CPAC. CPAC is not itself a 501(c)(3) and is not included on the IRS [list of charitable organizations](#). Donations to CPAC are not tax-deductible.

How to calculate and arrange for reimbursement to EPA

- Typically, I work with the Administrator's travel preparer (Gail Davis) to calculate the expenses to be paid by CPAC. This entire trip is political but in the local commuting area, so I expect that Mr. Pruitt will be conveyed in an EPA vehicle. Assuming that he is conveyed from EPA, then the distance to National Harbor is 10.6 miles. CPAC can expect to pay 17 cents per mile (based on the mileage rate for using a government vehicle), or \$1.80. I don't anticipate any other reimbursable costs.
- See attached a fact sheet on how we calculate political travel expenses.

Reminders to CPAC

- See attached a fact sheet on how to review political invitations. The last page of that document are *ground rules* that EPA has provided to political groups in the past to ensure compliance with the Hatch Act. This document reminds the political group not to use the appointee's official title in connection with the political activity.

Hatch Act reminders

- Once he is a federal employee, Mr. Pruitt will be subject to the Hatch Act and, among other things, cannot solicit political contributions.
- His EPA staff cannot volunteer political activity services to him, and he cannot accept volunteer services from a subordinate.

Other ethics related reminders

- Because this event takes place on a Saturday, you may need to be sure that Mr. Pruitt can be picked up from his residence. You may need to be sure that the President has approved in writing the need for home-to-work commuting.
- Because he is speaking on Saturday, he may accept free attendance on the day he is speaking, even though the donor (ACU) is a federally registered lobbyist. Pursuant to Executive Order 13,770, political appointees cannot accept any gifts from federally registered lobbyists unless an exclusion or exception applies. In this case, we can apply 5 CFR 2635.203(b)(8) to allow him to accept. Please note, however, that he will not be permitted to accept the gift of free attendance to CPAC on the days that he is not speaking. If he wishes to attend those days, then he will have to pay the registration fees out of his pocket. EPA appropriated funds cannot be used to pay for any political event.

Thanks again for asking, and please continue to do so!
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan (Inhofe) [mailto:Ryan_Jackson@inhofe.senate.gov]
Sent: Monday, February 13, 2017 8:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Pruitt at CPAC

Ex. 5 - Deliberative Process

From: Jackson, Ryan (Inhofe)
Sent: Monday, February 13, 2017 8:25 PM

To: 'fugh.justina@epa.gov' <fugh.justina@epa.gov>

Subject: Pruitt at CPAC

Justina, we are making arrangements for CPAC. It is at National Harbor on Saturday February 25. His speaking time is 1:15pm.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you.

Ryan Jackson
Chief of Staff
U.S. Senator James M. Inhofe
205 Russell Senate Office Building
Washington, D.C. 20510
(202) 224-4721
(202) 228-1007 facsimile

To: Jackson, Ryan (Inhofe)[Ryan_Jackson@inhofe.senate.gov]
From: Fugh, Justina
Sent: Tue 2/14/2017 11:53:38 PM
Subject: RE: Pruitt at CPAC

Hi Ryan,
With ethics advice, it's best to be super clear, so here goes.

YOU ASKED: Do we have the ethics approval to attend [the CPAC meeting on Saturday, February 25]?

JUSTINA: Assuming that Mr. Pruitt is confirmed and sworn in as EPA Administrator prior to Saturday, 2/25, then he may attend the CPAC meeting to give a speech at 1:15 pm, provided that he abides by the Hatch Act advice I've given. For the purposes of this advice, I assumed that Mr. Pruitt is attending CPAC only on the day that he is speaking (and not any other days), that he will not accept any gift from the sponsor of the event or any other federally registered lobbyist, and that he will not solicit contributions.

YOU ASKED: He may not be listed on the program as the EPA Administrator? May he be listed as "The Honorable Scott Pruitt?"

JUSTINA: He cannot use his EPA position or title in reference to his political activity, nor can he allow CPAC to refer to him by his EPA position or title. He cannot be listed on the program or on any informational material as EPA Administrator because doing so will violate the Hatch Act. CPAC can refer to him in its promotional materials as "The Honorable Scott Pruitt" and can mention, for example, his position as Attorney General of Oklahoma.

YOU SAID: The conditions I guess are that CPAC reimburses EPA \$1.80.

JUSTINA: Right. After the event, assuming no change from our typical practice, I will work with the Administrator's travel coordinator, Gail Davis, to verify that my back-of-the-envelope guess of \$1.80 is accurate and to add in any other expenses I did not anticipate. Then, I will write a letter to CPAC (if you give me the contact person and address) to seek reimbursement.

YOU SAID: His security detail may attend.

JUSTINA: Correct. The security detail will be traveling in official capacity and CPAC need not reimburse EPA for any of the expenses associated with them.

YOU ASKED: I may not attend? What if I'm simply attending because I've attended before?

JUSTINA: Assuming that you will be sworn in as an EPA employee prior to Saturday, February 25, then I can give you Hatch Act advice. To that end, yes, you may attend as a private citizen in your personal capacity. But please be careful about the registration fee. If you have paid the fee out of your own pocket, whether for one day or for multiple days, then you will comply with the gift rules and Executive Order 13,770. But if you attend in your personal capacity and your registration fee was waived by ACU or paid for by someone else, then you may not be able to accept it if the donor is a federally registered lobbyist (such as ACU). Please also note that you cannot provide any assistance to Mr. Pruitt while at the same meeting because he can't accept even volunteer services from someone who works for him while he is engaged in political activity.

YOU ASKED: Are there any other conditions, and do we need a letter?

JUSTINA: Do be careful about the registration fee and who's paying (or waiving) that. I don't want you to get crosswise with the Executive Order before I have a good chance to explain the lobbying gift ban to you.

YOU ASKED: The example of "Speeches to groups in support of Administration positions, whether or not related to environmental subjects, are generally considered "official" in nature." Is kind of confusing although I can appreciate the US Chamber example.

JUSTINA: Alas. That sentence is intended to convey the point that a PAS appointee may possibly be asked to give an Administration speech that is not necessary directly related to his agency's work. In other words, as a PAS appointee, the President may ask him to address a topic that is not directly related to the environment and yet it could still be considered an official speech.

Cheers,

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan (Inhofe) [mailto:Ryan_Jackson@inhofe.senate.gov]

Sent: Tuesday, February 14, 2017 5:42 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: RE: Pruitt at CPAC

I will continue to do that, and thank you again for the conversation the other night.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]

Sent: Tuesday, February 14, 2017 2:50 PM

To: Jackson, Ryan (Inhofe) <Ryan_Jackson@inhofe.senate.gov>

Subject: FW: Pruitt at CPAC

Hi there,

Thanks for the inquiry! Let's see if I can help clear things up:

CPAC is not a charitable organization

- The Conservative Political Action Conference (CPAC) is organized annually by the American Conservative Union (ACU). ACU does have an affiliated entity, the ACU Foundation, that is a 501(c)(3), but that foundation is not the entity that organizes CPAC. CPAC is not itself a 501(c)(3) and is not included on the IRS list of charitable organizations. Donations to CPAC are not tax-deductible.

How to calculate and arrange for reimbursement to EPA

- Typically, I work with the Administrator's travel preparer (Gail Davis) to calculate the expenses to be paid by CPAC. This entire trip is political but in the local commuting area, so I expect that Mr. Pruitt will be conveyed in an EPA vehicle. Assuming that he is conveyed from EPA, then the distance to National Harbor is 10.6 miles. CPAC can expect to pay 17 cents per mile (based on the mileage rate for using a government vehicle), or \$1.80. I don't anticipate any other reimbursable costs.
- See attached a fact sheet on how we calculate political travel expenses.

Reminders to CPAC

- See attached a fact sheet on how to review political invitations. The last page of that document are *ground rules* that EPA has provided to political groups in the past to ensure compliance with the Hatch Act. This document reminds the political group not to use the appointee's official title in connection with the political activity.

Hatch Act reminders

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- His EPA staff cannot volunteer political activity services to him, and he cannot accept volunteer services from a subordinate.

Other ethics related reminders

- Because this event takes place on a Saturday, you may need to be sure that Mr. Pruitt can be picked up from his residence. You may need to be sure that the President has approved in writing the need for home-to-work commuting.
- Because he is speaking on Saturday, he may accept free attendance on the day he is speaking, even though the donor (ACU) is a federally registered lobbyist. Pursuant to Executive Order 13,770, political appointees cannot accept any gifts from federally registered lobbyists unless an exclusion or exception applies. In this case, we can apply 5 CFR 2635.203(b)(8) to allow him to accept. Please note, however, that he will not be permitted to accept the gift of free attendance to CPAC on the days that he is not speaking. If he wishes to attend those days, then he will have to pay the registration fees out of his pocket. EPA appropriated funds cannot be used to pay for any political event.

Thanks again for asking, and please continue to do so!
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan (Inhofe) [mailto:Ryan_Jackson@inhofe.senate.gov]
Sent: Monday, February 13, 2017 8:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Pruitt at CPAC

Ex. 5 - Deliberative Process

From: Jackson, Ryan (Inhofe)
Sent: Monday, February 13, 2017 8:25 PM
To: 'fugh.justina@epa.gov' <fugh.justina@epa.gov>
Subject: Pruitt at CPAC

Justina, we are making arrangements for CPAC. It is at National Harbor on Saturday February 25. His speaking time is 1:15pm.

Ex. 5 - Deliberative Process

Thank you.

Ryan Jackson
Chief of Staff
U.S. Senator James M. Inhofe
205 Russell Senate Office Building
Washington, D.C. 20510

(202) 224-4721
(202) 228-1007 facsimile

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 2/14/2017 10:43:10 PM
To: Benton, Donald [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9a612fef5295424d9d78d3145c6cfe36-Benton, Don]
Subject: extension+another item

Hi there,

I've given you an extension of 45 days, which puts your new due date at April 7, 2017.

Also, John Konkus had asked me about whether Mr. Pruitt could participate in the following events after becoming Administrator and, if so, could the invitees pay for his travel:

CPAC – DC – February 22-25, 2017
Club for Growth – Palm Beach – March 16-18, 2017
Washington Policy Center – Seattle – March 6, 2017
TXOGA – Austin – March 7, 2017
Freedomworks – Scottsdale – February 23-36, 2017

After I provided the answer to this and some other questions, John stopped by so that I could be on a conference call with Ryan Jackson to discuss the Hatch Act. I expect that's why Mr. Jackson wrote to me about the CPAC meeting next week.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Benton, Donald
Sent: Tuesday, February 14, 2017 3:57 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: financial Disclosure

Justina,

I have discovered that I need more time to gather more information about my assets. May I please have an extension on the reporting deadline?

Thank You,

Don
Senator Don Benton
Senior White House Advisor
Office of the Administrator
202.564.4711



To: Brown, Clay[Brown.Clay@epa.gov]
From: Fugh, Justina
Sent: Thur 4/27/2017 12:38:17 AM
Subject: FW: E. Scott Pruitt will not participate in the Oklahoma GOP event on 5/5/17
[HOW TO REVIEW POLITICAL INVITATIONS.doc](#)

Here you go.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Wednesday, April 26, 2017 5:46 PM
To: 'amarrone@osc.gov' <amarrone@osc.gov>; 'Hamrick, Erica' <EHamrick@osc.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: E. Scott Pruitt will not participate in the Oklahoma GOP event on 5/5/17

Dear Ana and Erica,

Ex. 5 - Deliberative Process

I have copied both Mr. Jackson as well as Kevin Minoli, our Acting General Counsel and Designated Agency Ethics Official, for their information. Again, thank you for your attention to this matter.

With kind regards,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Tuesday, April 18, 2017 3:47 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Hupp, Sydney <hupp.sydney@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Hi Sarah,

Mr. Pruitt cannot ever engage in any fundraising for any political party or group, which includes how the organization refers to him in its publicity material if indeed he agrees to do this event. In addition, there are restrictions with regard to whether they can include his EPA title and position in connection with partisan political activity, and the organization will have to pay for his travel expenses.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Greenwalt, Sarah
Sent: Monday, April 17, 2017 10:28 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Hupp, Sydney <hupp.sydney@epa.gov>
Subject: Fwd: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Kevin, this was the request I mentioned.

Justina, has this come across your desk yet?

Ex. 5 - Deliberative Process

Thank you!

Sent from my iPhone
Begin forwarded message:

From: "Hupp, Sydney" <hupp.sydney@epa.gov>
Date: April 17, 2017 at 9:24:49 AM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>
Subject: RE: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

I have Sarah checking out the ethics of this.

Sydney Hupp
Office of the Administrator- Scheduling
202.816.1659

From: Jackson, Ryan
Sent: Saturday, April 15, 2017 7:05 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>

Subject: FW: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

From: Pollard, Pam [mailto:pam@okgop.com]

Sent: Tuesday, April 11, 2017 11:52 AM

To: Jackson, Ryan <jackson.ryan@epa.gov>

Subject: Speaking request for Admin Pruitt [WARNING: SPF validation failed]

Ryan,

Congratulations on your new job as COS for Administrator Scott Pruitt! Our nation truly is in a better place with you two at the EPA.

I would like to request Admin Pruitt to be our keynote speaker at our largest fundraiser of the year, The State Convention's Gala Dinner on May 5th, 2017 at the FirstMoore Baptist (301 NE 27th St, Moore, OK 73160).

Reception begins at 6 p.m. where Admin. Pruitt would be the guest of honor with the dinner at 7 p.m. when he would give the keynote address around 7:45 p.m.

The theme for the weekend is "Celebrate Oklahoma".

The Republican Party is proud to have voted for the Republican nominee for President for the 4th consecutive election which led to Donald J. Trump becoming the 45th President of the United States. We celebrate our 94% win record on the ballot in 2016 where the state democrats did not win a single race on the ballot.

But, the greatest celebration of all is our own Scott Pruitt and we would love to honor him for his achievements!

We are not only celebrating political victories, but we will have a special program on Saturday highlighting the Governor's Oklahoma Fosters Program asking our delegates to become more involved in the foster care program.

The audience will consist of approximately 500 OKGOP supporters and donors.

Press attendance will be subject to your office's preference.

I look forward to hearing from your office on Admin. Pruitt's availability.

--

Pam Pollard, Chairman
Oklahoma Republican Party

Ex. 6 - Personal Privacy

pam@okgop.com

HOW TO REVIEW POLITICAL INVITATIONS IN ACCORDANCE WITH THE HATCH ACT

The Hatch Act, 5 USC §§ 7321-7326, regulates the political activities of federal employees in the Executive Branch of the Federal government. “Political activity” is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. Under the Hatch Act, most employees cannot participate in partisan political activity while on government time and in government facilities. However, this rule is different for PAS employees. This guidance will help you to know what the PAS employees *can* and *cannot* do.

Who is a PAS employee?

EPA has 14 PAS employees, who are **P**residential **A**ppointees confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What are all employees prohibited from doing under the Hatch Act?

There are several things that no employee, including PASers, should do:

- (1) Don’t use your official authority or influence to interfere with or affect an election. Don’t use your official title while participating in political activity and don’t use your authority to coerce anyone to participate in political activity. Importantly, you can’t solicit, accept or receive uncompensated volunteer services from any subordinate for any political purpose;
- (2) Don’t fundraise, even in your private capacity. You can’t even let your name be used as the host of fundraiser. You can’t solicit political contributions in a speech or address at a fundraiser, and you can’t let your official title be used in connection with a fundraiser. You also can’t solicit, accept or receive volunteer services from an EPA subordinate;
- (3) Don’t run for partisan public office (without first talking to your ethics official and telling us where you live. There are a few exceptions for certain localities); and
- (4) Don’t solicit or discourage political activity from any person who is doing business with the Agency. This includes any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending in your office. It also includes any person who is the subject of an investigation, audit or enforcement action in your office. For PAS employees, this description can include a lot of people!

How are PASers special under the Hatch Act?

Unlike most employees, EPA’s fourteen PASers can participate in political activity while on duty, on government premises, in a government vehicle, and while wearing the EPA badge. But only they can do so. The rest of the EPA employees, including Schedule Cs and non-career SESers cannot.

The “Secret Service” exception

In limited cases, the Hatch Act nevertheless allows staff to assist the PAS consistent with their official duty. For example, a security detail may accompany the Administrator, even to a political event, so long as he is providing security and not himself participating in the political activity. Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the Administrator is engaged in political activity or a mix of official and political activity.

But this exception should not be broadened to include speech writing or any “extra” voluntary service!

What happens if an EPA PAS is invited to a political event?

1) The Scheduling Staff for the PAS should **examine the invitation** to determine who issued the invitation to the PAS employee and whether it is indeed for a political event.

- Clues: is the invitation from a campaign committee to elect someone? Is the event called a “rally” or a “fundraiser” or does it use words like “get out the vote?”

2) The Scheduling Staff should **send a copy of the invitation to OGC-Ethics** for review and confirmation as to whether it is indeed a political event.

3) If the event is political, then the Scheduling Staff must do the following:

\$ send the requestor the EPA’s “ground rules” about political events

\$ ask questions about the event:

- who is the host of the event?
- are there any co-sponsors?
- where will the event be held?
- who are the anticipated invitees to the event?
- how many people are expected to attend?
- what is the anticipated role of the EPA PAS at the event?

\$ identify a contact person on the Scheduling Staff to work with OGC

\$ identify a contact person on the requestor’s staff to talk to OGC

\$ do not confirm attendance until the event is cleared, in writing (by email), by OGC

NOTE: An employee with Agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate so long as the group has not been specifically targeted as having matters before the employing office. 5 CFR 734.305.

- An example of a permitted activity: the Administrator may speak on behalf of a partisan candidate at a forum sponsored by the League of Women Voters that is expected to have more than 100 people attend. However, he cannot use his official title and cannot solicit funds for the candidate in his speech. He also should not say that the candidate is endorsed by the US EPA.

- An example of a prohibited activity: the Administrator will not be permitted to speak at an event that is sponsored by an environmental law firm for its clients to be held in the law firm's offices.
- OGC will examine closely where the event is to be held and the sponsors and hosts. Scrutiny will be applied to certain entities, including lobbying organizations, law firms, for-profit and not-for-profit entities that have an environmental focus, and trade associations.

4) If the event is cleared, then the Scheduling Staff can confirm attendance, subject to the EPA's ground rules. The Scheduling Staff should now:

- \$ obtain a list of all of the invitees and send that list to OGC
- \$ obtain copies of all of the invitations and send to OGC for review of the format
- \$ talk to the PAS travel coordinator and OGC about payment for any political travel
- \$ reaffirm to the PAS that s/he cannot accept any volunteer services, including speeches
- \$ provide the PAS with the EPA's ground rules as part of her/his briefing package



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

GROUND RULES FOR PARTICIPATION IN A POLITICAL EVENT

Your campaign has invited a Presidentially-Appointed and Senate-confirmed appointee of the U.S. Environmental Protection Agency to speak at your political event. The Hatch Act, 5 U.S.C. §§ 7321-7326, sets forth certain restrictions that this employee must follow. She cannot use her official authority to further political activity; cannot solicit, accept or receive political contributions; and cannot solicit or discourage the political participation of anyone who has business pending before the Agency.

We ask that you review our ground rules carefully and ensure that they are followed. Failure to follow these rules may result in withdrawal of any approval to allow our employee to speak at your event.

- You must provide EPA with a copy of the invitation and any other public communications regarding the event before you may distribute them so that our counsel can ensure compliance with federal rules.
- Once EPA agrees to the final version of the invitation or other public communications, you cannot make any subsequent changes to the text or format nor change the title of the electronic files.
- You must provide EPA with a complete description of the event, the proposed venue, any sponsors or affiliated entities, and a summary description of proposed invitees.
- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.
- When you issue your invitations, you will include this statement as part of the distribution:

PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 2/14/2017 7:50:12 PM
To: Ryan_Jackson@inhofe.senate.gov
Subject: FW: Pruitt at CPAC
Attachments: HOW TO CALCULATE POLITICAL TRAVEL.doc; HOW TO REVIEW POLITICAL INVITATIONS.doc

Hi there,

Thanks for the inquiry! Let's see if I can help clear things up:

CPAC is not a charitable organization

- The Conservative Political Action Conference (CPAC) is organized annually by the American Conservative Union (ACU). ACU does have an affiliated entity, the ACU Foundation, that is a 501(c)(3), but that foundation is not the entity that organizes CPAC. CPAC is not itself a 501(c)(3) and is not included on the IRS list of charitable organizations. Donations to CPAC are not tax-deductible.

How to calculate and arrange for reimbursement to EPA

- Typically, I work with the Administrator's travel preparer (Gail Davis) to calculate the expenses to be paid by CPAC. This entire trip is political but in the local commuting area, so I expect that Mr. Pruitt will be conveyed in an EPA vehicle. Assuming that he is conveyed from EPA, then the distance to National Harbor is 10.6 miles. CPAC can expect to pay 17 cents per mile (based on the mileage rate for using a government vehicle), or \$1.80. I don't anticipate any other reimbursable costs.
- See attached a fact sheet on how we calculate political travel expenses.

Reminders to CPAC

- See attached a fact sheet on how to review political invitations. The last page of that document are *ground rules* that EPA has provided to political groups in the past to ensure compliance with the Hatch Act. This document reminds the political group not to use the appointee's official title in connection with the political activity.

Hatch Act reminders

- Once he is a federal employee, Mr. Pruitt will be subject to the Hatch Act and, among other things, cannot solicit political contributions.
- His EPA staff cannot volunteer political activity services to him, and he cannot accept volunteer services from a subordinate.

Other ethics related reminders

- Because this event takes place on a Saturday, you may need to be sure that Mr. Pruitt can be picked up from his residence. You may need to be sure that the President has approved in writing the need for home-to-work commuting.
- Because he is speaking on Saturday, he may accept free attendance on the day he is speaking, even though the donor (ACU) is a federally registered lobbyist. Pursuant to Executive Order 13,770, political appointees cannot accept any gifts from federally registered lobbyists unless an exclusion or exception applies. In this case, we can apply 5 CFR 2635.203(b)(8) to allow him to accept. Please note, however, that he will not be permitted to accept the gift of free attendance to CPAC on the days that he is not speaking. If he wishes to attend those days, then he will have to pay the registration fees out of his pocket. EPA appropriated funds cannot be used to pay for any political event.

Thanks again for asking, and please continue to do so!
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jackson, Ryan (Inhofe) [mailto:Ryan.Jackson@inhofe.senate.gov]
Sent: Monday, February 13, 2017 8:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Pruitt at CPAC

Ex. 5 - Deliberative Process

From: Jackson, Ryan (Inhofe)
Sent: Monday, February 13, 2017 8:25 PM
To: 'fugh.justina@epa.gov' <fugh.justina@epa.gov>
Subject: Pruitt at CPAC

Justina, we are making arrangements for CPAC. It is at National Harbor on Saturday February 25. His speaking time is 1:15pm.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you.

Ryan Jackson
Chief of Staff
U.S. Senator James M. Inhofe
205 Russell Senate Office Building
Washington, D.C. 20510
(202) 224-4721
(202) 228-1007 facsimile

**“POLITICAL” TRAVEL:
HOW TO CALCULATE AND COLLECT PAYMENT
ASSOCIATED WITH POLITICAL EVENTS**

Under the Hatch Act, 5 U.S.C. §§ 7321-7326, PAS appointees are permitted to participate in partisan political activity while on government time and in government facilities. However, they cannot use their EPA official authority, including titles, in connection with the political activity. They cannot fundraise and cannot directly solicit or discourage the political participation of any person who has business pending before EPA. They cannot direct subordinates to assist them nor can they accept the volunteer political activity services of subordinates. The Hatch Act prohibits use of federal appropriated dollars to pay for any travel costs associated with political activity. This guidance will help you to know what travel expenses EPA can – and cannot – cover.

Who is a PAS appointee?

EPA has 14 PAS positions, who are **Presidential Appointees** confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What is “political” travel?

As a general rule, travel by senior Administration officials is considered “political” if the primary purpose involves their positions as leaders of their political party. Travel is considered “political” when the PAS appointee is appearing at partisan political events, including conferences, political party functions, campaigning for specific candidates or attending a fundraiser (though never with reference to official position). For the purposes of this guidance, “political travel” includes local trips and trips beyond the 50-mile duty station radius. EPA funds cannot be used to pay for political travel.

Who pays for political travel?

In all cases, political travel must be paid for by the political entity.

What is not “political” travel?

Speeches to groups in support of Administration positions, whether or not related to environmental subjects, are generally considered “official” in nature. A speech before a non-partisan group, such as a Chamber of Commerce, is not partisan or political in nature if it contains no express advocacy and no direction that a particular political party’s candidates should be supported in an election campaign.

To what extent can non-PAS staff assist the PASer with political activity and travel?

Only PAS appointees can engage in political activity during normal duty hours or on government premises.

The Hatch Act permits EPA staff to provide services to the PAS appointee only to the extent that those services are ordinarily provided by them as part of their official duties and only so long as the work is purely official and not political in any way. For example, a security detail may

accompany the Administrator, even to political event, so long as the detail is providing security and not actually participating in the political activity. EPA must pay the security detail's travel.

Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the PAS employee is engaged in political activity or a mix of official and political activity. EPA staff may also prepare briefing materials associated with official Administration activities as part of their government duties, even if such materials might be included in partisan statements.

EPA staff may not, however, use duty time to prepare materials that will be used solely for "political" purposes, such as platform materials or other statements of "political" advocacy, nor can they volunteer their off-duty time to assist any EPA PAS official. The Hatch Act prohibits PAS employees from accepting volunteer political services from subordinates.

Who determines whether a trip is "political" or "official" in nature?

OGC/Ethics makes this determination. Among the factors that OGC will take into consideration are: (1) the sponsor of the event, (2) the group or organization being addressed, (3) other participants, and (4) whether the speech is partisan and political in nature or whether it is a factual presentation or defense of the Administration's position on the issues.

Can a trip contain both "political" and "official" elements?

Yes, but OGC/Ethics must work with the PASer's staff to apportion the costs between EPA and the political sponsor. EPA travel funds CANNOT be used for political travel!

How does EPA apportion the costs of a trip?

When events involve a mix of political and official travel, then OGC/Ethics works with the PASer's travel staff to identify all travel costs and applies the following "hard-time formula" to determine which costs are associated with political activity and which costs are associated with official duty:

Time spent in official meetings, receptions, etc.	+	Time spent in political meetings, receptions, rallies	=	Total activity time
<u>Time spent in official activity</u>			=	Percentage of trip that is official
Total activity time				
<u>Time spent in political activity</u>			=	Percentage of trip that is political
Total activity time				

EXAMPLE: A PAS employee travels to Chicago and spends 3 hours on official business in the regional office, and then spends 2 hours on political activity. EPA should pay 3/5ths of the total cost of the trip while the political sponsor pays 2/5ths of the total costs.

NOTE: In a presidential election, however, then the campaign will pay for ALL of the costs using the “hypothetical” formula instead of the “hard time” formula.

HELPFUL HINTS:

- ⇒ Do not apply the “hard time” allocation to expenses that are solely one type or another.
 - An expense to rent a sound system for a political event must be paid in its entirety by the political sponsor. Similarly, a registration fee to attend a conference in official capacity must be paid in its entirety by the Agency.
- ⇒ In allocating costs other than air travel (e.g., lodging or per diem), use the government maximum for that type of expense.
 - If a mixed trip is 50% official and 50% political, and the government per diem rate is \$140, then the maximum per diem expense chargeable to the government is 50% of \$140, not 50% of the actual cost.
- ⇒ Any questions should be resolved in favor of charging EPA less and the political sponsor more.

What is the process for seeking and receiving payment from a political sponsor?

- 1) The PAS travel coordinator and/or administrative staff must consult OGC/Ethics to determine whether the trip is political, official or mixed. This determination must be made by OGC/Ethics in writing.
- 2) OGC/Ethics verifies with the scheduling staff and the political sponsor that the political sponsor understands it will be paying for all political travel. A copy of this correspondence must be included in the official travel record.
- 3) EPA makes all travel arrangements, prepares the travel authorization (TA), and arranges for EPA to pay the travel expenses. In this way, the Agency maintains control over the PAS appointee’s schedule and ensures that s/he is eligible for city pair fares and the government rate, and gets refundable tickets in the event of a change in reservations.

The TA must include a statement that the PAS appointee is traveling for a political purpose or a mixed political purpose and that the political sponsor will be paying for all political travel expenses. In this way, EPA’s Finance Center is alerted to the fact that it will pay the PAS appointee for the travel using EPA funds, but that EPA will obtain reimbursement from a third-party. When the payment arrives, EPA will be able to accept the money directly. It will not need to go to the US Treasury for miscellaneous receipts.

4) The PAS travel coordinator, the PAS scheduling staff and OGC/Ethics review the planned itinerary to identify all politically-related travel costs and to approximate the time spent in

political activity. The PAS travel coordinator, in consultation with OGC/Ethics, prepares the travel record.

5) Upon return from the trip, the PAS employee provides all receipts to the PAS travel coordinator to prepare the travel voucher. The voucher must include a statement that the PAS employee traveled for a political purpose or a mixed political purpose and that the political sponsor will be paying for all political travel expenses.

6) OGC/Ethics calculates the political expenses. For mixed political and official trips, OGC/Ethics calculates the hard-time allocation. The PAS travel coordinator includes the completed “event worksheet” in the official travel record.

7) OGC/Ethics writes to the political sponsor for payment in the form of a check made out to US EPA. The check must be sent to the PAS travel coordinator. Upon receipt, the PAS travel coordinator verifies that the amount received is at least the same as the amount requested, then notifies OGC/Ethics that the reimbursement has arrived. The PAS travel coordinator writes the DCN number and TA number on the check and sends it to Finance so that the EPA travel budget can be reimbursed. A copy of the check must be included with the official travel record.

HOW TO REVIEW POLITICAL INVITATIONS IN ACCORDANCE WITH THE HATCH ACT

The Hatch Act, 5 U.S.C. " 7321-7326, regulates the political activities of federal employees in the Executive Branch of the Federal government. A Political activity@ is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. Under the Hatch Act, most employees cannot participate in partisan political activity while on government time and in government facilities. However, this rule is different for PAS employees. This guidance will help you to know what the PAS employees can B and cannot B do.

Who is a PAS appointee?

EPA has 14 PAS positions, who are Presidential Appointees confirmed by the Senate. They are the Administrator, the Deputy Administrator, the General Counsel, the Inspector General, the Chief Financial Officer, and the nine Assistant Administrators.

What are all employees prohibited from doing under the Hatch Act?

There are several things that no employee, including PASers, should do:

- (1) Don=t use your official authority or influence to interfere with or affect an election. Don=t use your official title while participating in political activity and don=t use your authority to coerce anyone to participate in political activity. Importantly, you can=t solicit, accept or receive uncompensated volunteer services from any subordinate for any political purpose;
- (2) Don=t fundraise, even in your private capacity. You can=t even let your name be used as the host of fundraiser. You can=t solicit political contributions in a speech or address at a fundraiser, and you can=t let your official title be used in connection with a fundraiser. You also can=t solicit, accept or receive volunteer services from an EPA subordinate;
- (3) Don=t run for partisan public office; and
- (4) Don=t solicit or discourage political activity from any person who is doing business with the Agency. This includes any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending in your office. It also includes any person who is the subject of an investigation, audit or enforcement action in your office. For PAS appointees, this description can include a lot of people!

How are PASers special under the Hatch Act?

Unlike most employees, EPA=s fourteen PASers can participate in political activity while on duty, on government premises, in a government vehicle, and while wearing the EPA badge. But only they can do so and only with each other. The rest of the EPA employees, including Schedule Cs and non-career SESers cannot.

The ASecret Service@ exception

In limited cases, the Hatch Act nevertheless allows staff to assist the PAS consistent with their official duty. For example, a security detail may accompany the Administrator, even to a political event, so long as they are providing security and not himself participating in the political activity. Similarly, an administrative assistant may prepare the travel and itinerary associated with a political trip even if the Administrator is engaged in political activity or a mix of official and political activity.

But this exception should not be broadened to include speech writing or any Aextra@ voluntary service!

What happens if an EPA PAS is invited to a political event?

1) The Scheduling Staff for the PAS should **examine the invitation** to determine who issued the invitation to the PAS employee and whether it is indeed for a political event.

| Clues: is the invitation from a campaign committee to elect someone? Is the event called a Arally@ or a Afundraiser@ or does it use words like Aget out the vote?@

2) The Scheduling Staff should **send a copy of the invitation to OGC/Ethics** for review and confirmation as to whether it is indeed a political event.

3) If the event is political, then the Scheduling Staff must do the following:

\$ send the requestor the EPA=s Aground rules@ about political events

\$ ask questions about the event:

| who is the host of the event?

| are there any co-sponsors?

| where will the event be held?

| who are the anticipated invitees to the event?

| how many people are expected to attend?

| what is the anticipated role of the EPA PAS at the event?

\$ identify a contact person on the Scheduling Staff to work with OGC

\$ identify a contact person on the requestor=s staff to talk to OGC

\$ do not confirm attendance until the event is cleared, in writing (by email), by OGC

NOTE: An employee with Agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate so long as the group has not been specifically targeted as having matters before the employing office. 5 CFR 734.305.

| An example of a permitted activity: the Administrator may speak on behalf of a partisan candidate at a forum sponsored by the League of Women Voters that is expected to have more than 100 people attend. However, he cannot use his official title and cannot solicit funds for the candidate in his speech. He also

should not say that the candidate is endorsed by the US EPA.

| An example of a prohibited activity: the Administrator will not be permitted to speak at an event that is sponsored by an environmental law firm for its clients to be held in the law firm=s offices.

| OGC will examine closely where the event is to be held and the sponsors and hosts. Scrutiny will be applied to certain entities, including lobbying organizations, law firms, for-profit and not-for-profit entities that have an environmental focus, and trade associations.

4) If the event is cleared, then the Scheduling Staff can confirm attendance, subject to the EPA=s ground rules. The Scheduling Staff should now:

- \$ obtain a list of all of the invitees and send that list to OGC

- \$ obtain copies of all of the invitations and send to OGC for review of the format

- \$ talk to the PAS travel coordinator and OGC about payment for any political travel

- \$ reaffirm to the PAS that s/he cannot accept any volunteer services, including speeches

- \$ provide the PAS with the EPA=s ground rules as part of her/his briefing package



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C., 20460

GROUND RULES FOR PARTICIPATION IN A POLITICAL EVENT

Your campaign has invited a Presidentially-Appointed and Senate-confirmed appointee of the U.S. Environmental Protection Agency to speak at your political event. The Hatch Act, 5 U.S.C. §§ 7321-7326, sets forth certain restrictions that this employee must follow. She cannot use her official authority to further political activity; cannot solicit, accept or receive political contributions; and cannot solicit or discourage the political participation of anyone who has business pending before the Agency.

We ask that you review our ground rules carefully and ensure that they are followed. Failure to follow these rules may result in withdrawal of any approval to allow our employee to speak at your event.

- You must provide EPA with a copy of the invitation and any other public communications regarding the event before you may distribute them so that our counsel can ensure compliance with federal rules.
- Once EPA agrees to the final version of the invitation or other public communications, you cannot make any subsequent changes to the text or format nor change the title of the electronic files.
- You must provide EPA with a complete description of the event, the proposed venue, any sponsors or affiliated entities, and a summary description of proposed invitees.
- You may not specifically target invitees with interests before the Agency. If EPA agrees to provide a speaker, you will provide a list of all invitees to EPA and their contact information at least 48 hours in advance of the event.
- When you issue your invitations, you will include this statement as part of the distribution:

PLEASE NOTE: The federal Hatch Act prohibits this speaker from soliciting or discouraging the political participation of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before US EPA. If you or your company has any business pending before any part of EPA, we ask that you not attend this event.

Any questions regarding these rules should be directed to Justina Fugh, Senior Counsel for Ethics, at fugh.justina@epa.gov or 202 564 1786.

To: Ford, Hayley[ford.hayley@epa.gov]
Cc: Keith, Jennie[Keith.Jennie@epa.gov]
From: Fugh, Justina
Sent: Thur 9/7/2017 5:29:46 PM
Subject: RE: Ethics Approval: Conservative Action Plan 9.13.17

Ex. 5 - Deliberative Process

From: Ford, Hayley
Sent: Wednesday, September 06, 2017 4:43 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Ethics Approval: Conservative Action Plan 9.13.17

Event is at Family Research Council in DC. Confirmed it is entirely not political. Discussion is focused on purely current policy events (Hurricane, legislation, etc). Nothing about campaigns/donors/fundraising.

Hayley Ford
Deputy White House Liaison
Office of the Administrator
Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

From: Fugh, Justina
Sent: Wednesday, September 6, 2017 11:19 AM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Ethics Approval: Conservative Action Plan 9.13.17

Where is the meeting? What will be discussed?

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Ford, Hayley
Sent: Wednesday, September 06, 2017 11:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>
Subject: Ethics Approval: Conservative Action Plan 9.13.17

Hoping it's ok to not have a form for this one but details below. Thanks!

9/13, 7:30-9 (not sure if breakfast involved):
Smaller but elite group. Usually no more than 15 people, but it includes folks like former Attorney General Ed Meese from Heritage, former Congressman Bob McEwen from Council for National Policy, former Congressman David McIntosh from Club for Growth, Ed Corrigan from the new Jim DeMint operation--the Conservative Partnership Institute, Tony Perkins from the Family Research Council, plus some top Hill staff like Senator Cruz's LD and the executive director for the House Freedom Caucus. There are often top guests who go thru there (congressman, senior WH staff, etc.) because of the high impact.

Hayley Ford
Deputy White House Liaison
Office of the Administrator

Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/16/2018 5:18:47 PM
To: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: FW: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.
Attachments: 2017_12_07 UARG briefing at Hunton with PowerPoint.pdf; 2017_12_5 NSR Staff meeting Wehrum Calendar.pdf; 2017_11_3 AFPM_Hunton Presentation Shared by with EPA STAFF.pdf

FYI

From: Konkus, John
Sent: Thursday, August 16, 2018 12:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: FW: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Matt and Justina: We're going to need OGC's help with this one. Deadline is noon tomorrow. Justina, what's a good time for us to connect via phone this afternoon?

From: Eric Lipton [<mailto:lipton@nytimes.com>]
Sent: Thursday, August 16, 2018 11:52 AM
To: Block, Molly <block.molly@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Press <Press@epa.gov>
Subject: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Hello again Molly and Bill.

Here are a few specific outstanding questions I wanted to ask based on items that have come up since I spoke with Bill back in April. I am writing them out very specifically with backup documents in a few cases so the questions are clear and easier to respond to.

1) Mr. Wehrum's calendar that we obtained via FOIA includes a Dec. 7 2017 meeting at the DC offices of Hunton, where Mr. Wehrum gave a presentation on the Clean Air Act. **See the attached materials in attachment 1.** The Trump ethics pledge says that a lawyer should not meet with former clients for two years including any "meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties." How does this meeting honor that requirement? This was not a public meeting. And UARG is a former client.

2) Mr. Wehrum, before he was nominated but while his paperwork was being reviewed for the nomination, had a meeting at the EPA in June 2017 on behalf of brick manufacturers association to discuss concerns by the industry with the brick emissions rule. In October 2017, the EPA asked a federal court to "hold all proceedings in abeyance in these consolidated petitions for review" related to this case, as it was going to reconsider this rule. Is Mr. Wehrum working on this matter, in terms of the proposed policy change? And separately, he he participating in the handling of the litigation?

3) Has Mr. Wehrum signed his recusal letter. He explained to me why he had not. I just wanted to see if he has now decided to sign if. If so, I can have a copy of it please.

4) During the review of the NSR Policy memo issued on Dec. 7, 2017, I was told that Mr. Wehrum participated in a Dec. 5 2017 staff meeting (see **attachment 2**, although I know that this listing does not mention what was specifically discussed) where the matter was discussed, and where Susan Bodine among others expressed concerns about the changes, which included not "second guess" emissions projections. I had asked Bill about this general issue. I subsequently was told about this specific meeting on Dec. 5, where the matter was discussed. Why was it ok for Bill to participate in this meeting. A participant said that a copy of the memo was distributed at the meeting that had certain redactions, removing DTE's name. Is that the explanation. Welcome input.

5) I wanted to ask for Mr. Wehrum to react to criticism from some folks that the change in the "once in, always in" policy could result in a significant increase in release of harmful pollutants. Is this a fair criticism?

6) When the March 13 2018 memo was released clarifying NSR projection evaluations, Mr. Wehrum was quoted in the news release, but he decided not to go to the ceremony where several companies including Marathon and Valero were invited to mark the event. We were told that Mr. Wehrum felt he would work on the policy, as it broadly impacts regulated parties (it is not a particular matter involving specific parties) but he could not attend this event, as former clients were there and it was a private event. Any comment on that. Is that a correct reading of the events here?

7) A memo was sent to the EPA on Nov 3 2017 (see **attachment 3**) that was from a presentation that Bill gave along with Kenneth Weiss related to NSR changes the petro chemical industry wanted to see made. I read the presentation which was based on the memo that is included in this email, and I noted that several of the changes in NSR underway "project netting" and "project aggregation" and also "second guess" issues reflect priorities here. Is this anything that is bad about this correlation? Is Mr. Wehrum, in the policy revisions he has worked on, helping with these changes because it was part of an industry agenda?

8) Finally, I wanted to ask more directly here a point that emerges from these questions: Some outsiders look at the actions the EPA has taken since Mr. Wehrum was confirmed and say that Mr. Wehrum is working to benefit the interests of his former clients. What is your reaction to that assertion? Why is that a misreading of his efforts?

Thanks again for your help. Happy to clarify any of these questions.

I need a response by Noon Friday.

ERIC

Eric Lipton
The New York Times
Washington Bureau
202 862 0448 office
Ex. 6 - Personal Privacy | mobile
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To: Wood, Anna[Wood.Anna@epa.gov]
From: David Friedman
Sent: Fri 11/3/2017 5:57:35 PM
Subject: RE: November 2 AFPM Meeting on NSR
Wehrum Weiss NSR Reform in 2017 - Whats Next ENV-2017-19.pdf

Anna- we appreciated your time as well as your staff's time yesterday. We thought it was a robust discussion and we look forward to future meetings on this topic. I have attached the paper that formed for the basis for Bill's presentation at our Environmental Conference in October.

From: Wood, Anna [mailto:Wood.Anna@epa.gov]
Sent: Friday, November 3, 2017 10:25 AM
To: David Friedman <DFriedman@afpm.org>
Subject: Re: November 2 AFPM Meeting on NSR

Hi David, thank you again for the conversation yesterday. It was very helpful to hear and better understand your members' perspective. Please send when you have a moment the presentation that Bill W used at your recent meeting as that would be very helpful and appreciated. Many thanks again and have a good weekend, Anna

Sent from my iPhone

On Oct 30, 2017, at 2:10 PM, David Friedman <DFriedman@afpm.org> wrote:

Anna- I am just confirming our meeting with you and your staff on Thursday, November 2 from 10-12. I have attached an agenda and the following folks will be in attendance:

<u>Name</u>	<u>Company</u>	<u>State</u>
David Friedman	AFPM	Virginia
Matthew Hodges	Valero Energy	Texas
Michael Hopperton	BP	Georgia
David Pavlich	Phillips 66	Oklahoma

Please let me know if you have any additional questions and we look forward to our

meeting on Thursday.

David N. Friedman

Vice President

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<Agenda for AFPM-EPA Nov 2 Meeting.docx>



2017 Environmental Conference
Air Permitting/NSR/NAAQS Session
October 15-17, 2017
Grand Hyatt Denver
Denver, CO

ENV-2017-19 **NSR Reform in 2017 – What's Next?**

Presented By:

Kenneth Weiss, *ERM*
William Wehrum, *Hunton & Williams LLP*

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NSR Reform in 2017 - What's Next:

Kenneth N. Weiss, P.E., BCEE, ERM

Introduction

Fifteen years after the last major effort to reform the New Source Review (NSR) program, the Trump administration is undertaking a major initiative aimed at regulatory reform. Not surprisingly, NSR is at the forefront as it remains as one of the most controversial regulatory program enforced by the U.S. Environmental Protection Agency (EPA). These rules historically have had substantial adverse impacts on the refining and petrochemical sector, in part due to lack of rule clarity and inconsistent rule application across the country and have been identified by AFPM as one of the five stationary source regulations of most concern to American Fuel & Petrochemical Manufacturers (AFPM) members¹. This paper discusses regulatory changes that would be most beneficial to the refining and petrochemical sector and examines prospects to make such changes in the NSR program. The discussion is informed and enhanced by revisiting aspects of the 2002 NSR reform effort that ultimately were not successfully implemented and includes recommendations for a path forward.

Refining and Petrochemical Sector Challenges with NSR

The industry largely needs to concern itself with the impact of the NSR program on modifications to existing facilities as very few new facilities are being planned or constructed. Industry innovation has allowed the sector to meet demand by improving existing operations to accommodate needed demand. Yet the NSR regulations present challenges to refiners and petrochemical plants on two overarching fronts:

1. The time required to obtain a permit widely varies across the United States for no real identifiable reasons and in many instances appears to extend for unreasonable periods of time. A search of EPA's RACT/BACT/LAER Clearinghouse (RBLC) shows that the average time for final permit issuance of a new or modified source at a refinery since about 2005 is 14 months after submission of a complete application, with regional

¹ May 15, 2017 letter from David Friedman to Sarah Rees, EPA Office of Policy, and available at Docket ID Number EPA-HQ-OA-2017-0190

variability from 1 month to 7.5 years (RBLC search, 8/23/2017). There are thirty entries in the RBLC captured in the data search and 13 of them required at least a year to obtain a final permit.

This data is consistent with other industry wide studies. For example, Frass, Graham and Holmstead report that, “during the period from 2002 to 2014, the nationwide average time to obtain an NSR permit for coal- and natural gas-fired electric generating units (EGUs) and refineries was roughly 14 months. This represents a substantial increase in average processing time for NSR permits compared with the reported permitting times for the 1997-2001 period. The distributions are skewed—median values are less than the mean—with some projects requiring substantially longer to obtain NSR approval. In addition, there was a significant variation across EPA regions in the processing time required for approval of new natural gas-fired EGUs— from seven months for Region 7 (Iowa, Kansas, Mississippi, and Nebraska) to 19 months for Region 9 (Arizona, California, and Nevada).”²

2. The actual implementation of the existing NSR rules is very complex and fraught with opportunities for error. A library of approximately 700 guidance documents sets out Agency interpretations and includes confusing and, at times, conflicting information. Moreover, the New Source Review Workshop Manual has not been updated since 1990 and, although, it is EPA's primary guidance document, it is chock-full of outdated information. It is this complexity that leads to the widely variable and inconsistent application of the regulations and that subjects the refining and petrochemical industry to needless and unwarranted potential enforcement exposure. This is not conjecture as NSR was one of the four marquis issues upon which EPA's refinery enforcement initiative was founded. The results of that effort since March 2000 are informative:
 - a. Ninety-five percent of the nation's refining capacity have entered into settlement agreements with EPA in 37 settlement agreements;
 - b. 112 refineries are impacted by these agreements;
 - c. Settling companies have agreed to invest more than \$7 billion in control technologies and payed civil penalties of more than \$116 million.

In the NSR area much of the dispute between industry and the refining

² EPA's New Source Review Program: Time for Reform by Art Fraas, John D. Graham, and Jeff Holmstead, Environmental Law Institute 2017

sector hinged on different understanding and interpretations of the NSR rules. A more straight-forward program would be beneficial to all parties.

NSR Reform History and Related Actions

Practically, there are three mechanisms available to streamline the NSR rules and to provide clarity:

1. EPA can issue guidance memoranda and policy updates that have substantial impacts on the actual implementation of the rules either negatively or positively. Some policy documents add clarity to the process while others add administrative burden and complexity. These memoranda and guidance documents do not have equal standing to the actual regulations and are subject to judicial challenge but they often result in almost immediate changes to the rules. The downside to the policy approach is that policy can be changed by new policy. An example of this process is the “Wehrum Memo”³ where the EPA, under the Bush administration, attempted to clarify the source definition for oil and gas fields. The then Acting Assistant Administrator for Air issued the Wehrum memo to clarify how EPA would address oil and gas fields. But when the Administration changed, the new Assistant Administrator reversed field⁴ and walked back the Wehrum memo, which resulted in confusion that ultimately was resolved with a rulemaking (which, ironically, largely adopted the Wehrum memo approach).

There are other policy and guidance issues that are nowhere near as well known as the Wehrum memorandum that can ease the burden associated with NSR permitting. A recent example is the revised Guideline on Air Quality Models⁵ which contains several enhancements to guidance that can potentially offer relief to historically challenging and burdensome elements associated with PSD air quality modeling analyses. Among other enhancements, the revised guideline suggests that nearby sources to include in a PSD modeling analysis do not necessarily have to extend to over 50 km from the project site, which differs from the prescriptive approach described in the Draft 1990 New Source Review Workshop Manual. Additionally, the guidance now allows for consideration of actual emissions when doing a cumulative (multi-source) analysis, compared to

³ Memorandum from William L. Wehrum, Acting Assistant Administrator, Office of Air and Radiation, to Regional Administrators I – X, Source Determinations for Oil and Gas Industries, January 12, 2007.

⁴ Memorandum from Gina McCarthy, Assistant Administrator, Office of Air and Radiation, to Regional Administrators I-X, Withdrawal of Source Determinations for Oil and Gas Industries

⁵ 40 CFR 51 “Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches To Address Ozone and Fine Particulate Matter”, Federal Register/Vol. 82, No. 10/ January 17, 2017

previous guidance that required the use of potential-to-emit emissions for background sources which is a substantial and important improvement. The revised guideline also includes an option to utilize meteorological data derived from prognostic meteorological models in situations where representative meteorological data are not readily available. This should substantially reduce the need for in-the-field meteorological stations and already has streamlined the NSR process in some real examples.

2. EPA can promulgate changes to the existing NSR rules through a typical rulemaking process requiring the development of a proposed rule package, consideration of public comments and ultimately promulgation of revisions to the PSD rules. This is a time consuming process and requires substantial dedication of time and resources (as is the situation with any complex rule) and often leads to litigation.

The last significant effort to accomplish a regulatory update of the NSR rules were the reforms promulgated in December 31, 2002. As discussed below, several of the changes EPA attempted to implement were successful while others ultimately were either abandoned or revoked. The industry should look to this history to better understand how to support successful updates to the NSR program that aim to address the lack of certainty and unpredictable permitting cycle time associated with the existing program. These issues are addressed in the next section of this paper.

3. Some changes to the NSR program can only be accomplished by amending the underlying Clean Air Act (CAA). Of course, any changes to the statute would require congressional action. For example, EPA does not have the authority to remove petroleum refineries from the list of 28 source categories subject to NSR when the potential to emit of a regulated pollutant equals at least 100 tpy as that requirement is part of the CAA. Only Congress can do this.

Changes that AFPM suggested in their comments to EPA about this subject potentially could be accomplished through any of these three categories. AFPM made the following recommendations to EPA with respect to the NSR Program:

1. Eliminate the need to consider emissions increases from non-modified affected emission units. This could be accomplished initially by policy and then by regulation. Note that EPA attempted this in the 2002 Reforms and this issue is addressed in a later section of the paper.
2. Allow project netting so that emissions reductions associated with a project can be considered in Step 1 of the PSD/NNSR applicability

analysis. This was once EPA policy and was an accepted approach. The 2006 proposed revisions to the NSR regulations included preamble language that appears to clearly allow project netting in some situations:

*“Use of the phrase ‘sum of the difference’ between projected and baseline emissions indicates that one must look at the difference between the projection and the baseline. That difference may either be a positive number (representing a projected increase) or a negative number (representing a projected decrease). In either case, the values must be taken into consideration in determining the overall increase, or decrease, in emissions resulting from the project.”*⁶

Project netting should be restored for all purposes. This could most easily be accomplished by finalizing the still-pending 2006 proposal.

3. Use a “potential to potential” comparison of emissions to determine whether PSD/NNSR is triggered. Use of this test to trigger PSD would have to be squared with DC Circuit precedent holding that actual emissions must be used to determine whether a project results in a significant net emissions increase. At a minimum, regulatory language would be required as the existing rules do not accommodate this approach. This would likely be a contentious change to the regulations and would be litigated for certain.
4. Provide a definition of “project” to address uncertainty around project aggregation.

EPA’s existing policies addressing the “project” definition are confusing and adoption of a definition would certainly address this issue. It should be noted however that the Agency promulgated a Project Aggregation rule in January 2009⁷ with no changes to the existing NSR rule text, so the preamble language provides EPA’s most current interpretation or policy on aggregating projects. Under the subsequent Administration, EPA stayed the effectiveness of this rule and indicated that it planned to rescind the rule. This was never accomplished. Guidance published by EPA since staying the effectiveness of the rule leans on more restrictive prior guidance memoranda. There is nothing preventing EPA from removing the stay and allowing the 2009 rule to take effect although NRDC would object. This would provide some immediate certainty to the permitting process. The ENGO’s still-pending challenge to the rule likely would go forward at that point.

⁶ 71 FR 54235

⁷ 74 FR 2376

The 2002 and 2003 NSR Reforms and Lessons Learned

In 1996, USEPA embarked upon a program to simplify the NSR program. The Agency proposed a series of changes to the PSD and non-attainment NSR rules that were intended to add clarity to the program applicability requirements. EPA also hoped to revise or eliminate program elements that created barriers to innovation, reliability, and efficiency without providing any real environmental benefit. These changes are commonly known as “NSR Reform.”

Table 1 provides a snapshot of the current status of the NSR Reforms of most importance to the petroleum industry that USEPA attempted to finalize in 2002 and 2003 in summary form as well as some important later efforts.

Table 1 – NSR Reform Scorecard

	In Effect	Abandoned, Stayed or Revoked	Comment
10 yr. Baseline Emissions Look back	✓		
Actual to Future Actual Methodology	✓		
Actual Plantwide Applicability Limits (PALs)	✓		
Clean Unit Test		✓	
Pollution Control Project Exclusion		✓	
Flexible Permitting and NSR Green Groups		✓	
RMRR Bright-Line Test		✓	
Project Aggregation Rule		✓	
Source Aggregation Policy	✓		
Reasonable Possibility Rule	✓		
Fugitive Emissions Rule		✓	

There are many interesting history lessons to be learned from the 2002/2003 NSR Reform experience. Three of the most interesting issues that impact the refining and petrochemical sector include the:

- Actual to Future Actual Methodology (ATFA)

- Project Aggregation Rule
- Clean Unit/PCP Revocation

There are different lessons from each that should be remembered as efforts are aimed at updating the rule in the current years.

Use of the Actual to Future Actual Methodology

The use of the 10-year baseline and actual to future actual methodology (ATFA) to determine emissions increases can be enormously beneficial. Proper application of these elements of the NSR program allows the regulatory agency and the emissions source to focus time on those projects that result in real increases in air pollution. However, time has shown that what should be a relatively straight-forward determination is not in fact so straight-forward.

There is a long running dispute between EPA and DTE Energy Company that is informative. The issue at the center of the DTE controversy involves the proper application of the ATFA method of determining emissions increases promulgated as part of the 2002 NSR reform rules. This is the first case addressing the revised applicability provisions of the reform rules.

The facts of the case are relatively straight-forward. DTE undertook a project at the Monroe Station in 2010 to replace various boiler tube components. As required, the company provided notice to the Michigan permitting authority of the planned projects along with emissions projections that showed no significant emissions increase or applicability of the NSR rules. The permitting authority did not question the emissions projections.

In 2010, the Department of Justice filed a complaint against Detroit Edison alleging violations of Michigan's NSR rules related to certain maintenance projects. Essentially, EPA did not agree with DTE's emissions projections and even though post change actual emissions have, in-fact, been lower than baseline emissions, EPA's position has been that it nevertheless may second-guess the company's projection. The enforcement action against Detroit Edison's Monroe station is the first post NSR Reform dispute on this topic.

DTE in the protracted litigation claimed that actual emissions after the upgrades showed NSR should not have been triggered and that EPA does not have authority under the 2002 rules to second guess DTE's projection. The district court agreed. The 6th Circuit in the first appeal of the suit in 2013, known as DTE1, reversed the district court, but only on the narrow grounds that EPA should be able to challenge a pre-project emissions projection that does not facially conform to the rule. On remand, the U.S. District Court for the Eastern

District of Michigan again found in favor of DTE, finding no facial flaw in DTE's projections -- only to be reversed again in the Jan. 10 ruling known as DTE2. This is a fractured decision that overturned the district court, but provided no clarity on the law because the three judges issues three separate, and disparate, opinions. DTE is currently seeking review of DTE2.

The lesson here is that even though a regulatory change is indeed promulgated as the ATPA reforms were promulgated in 2002, explicit regulatory language or detailed preamble guidance is necessary to ensure proper interpretation of the rule language.

Project Aggregation Rule

As noted previously, EPA addressed the Project Aggregation issue in a 2006 proposed rule and a 2009 final rulemaking⁸. Under this rule, sources and permitting authorities should combine emissions only when nominally separate changes are "substantially related." Further, two nominally-separate changes are not substantially related if they are only related to the extent that they both support the plant's overall basic purpose. This rule adopted a rebuttable presumption that nominally-separate changes at a source that occur three or more years apart are presumed to not be substantially related. EPA has stayed the effective date of that final rule due to a petition for reconsideration and EPA continues to follow its historic approach to aggregation.⁹

Removing the stay would resolve many of the issues refiners face and could provide the improved certainty that would benefit refiners. This may be a path to avoid a new rulemaking process. The new Administration would need to resolve the NRDC petition for reconsideration and pending judicial challenge in this event.

Clean Unit Test/Pollution Control Project Exclusion Revocation

The 2002/2003 NSR Reform rules included the introduction of a new "Clean Unit" Test exempting certain emissions units that meet emission limitations by installing stringent air pollution controls from NSR, and an expansion upon the pollution control project NSR exemption initially promulgated on July 21, 1992 (57 FR 32314). The United States Court of Appeals for the District of Columbia vacated both the Clean Unit Test and pollution control project exemption in an opinion issued on June 24, 2005. The court's basis for vacating these two

⁸ 71 Fed. Reg. 54235 (Sept. 14, 2006) (proposed rule); 74 Fed. Reg. 2376 (Jan. 15, 2009) (final rule).

⁹ 72 Fed. Reg. 19567 (April 5, 2010).

exemptions from the NSR program is that actual emissions must be used in determining whether a project results in a significant net emissions increase.

This decision should inform the viability of certain changes to the NSR rules. Notably suggested updates to the rules that could be viewed to allow increases in actual emissions without requiring preconstruction review may require amendments to the underlying Clean Air Act. Some parties, for example, might argue that a potential to potential emissions test to determine NSR applicability would result in allowing increases in actual emissions and, thus, such an applicability test might run counter to DC Circuit precedent.

Other Rule Changes Being Suggested to EPA

EPA's regulatory reform docket (No. EPA-HQ-OA-2017-0190) currently contains approximately 63,500 comments providing input to EPA on the topic of regulatory reform. Suggestions to improve the NSR permitting program are prominently featured in the docket along with some very damning comments such as:

- New Source Review (NSR) is the CAA's most broken program
- "NSR imposes the most burden on NEDA / CAPs members speaking about all EPA regulations"
- "As a group, the multiple conservative and burdensome set of air quality regulations surrounding NSR permitting are a deterrent to manufacturing facility modifications and expansions"
- The American Fuel & Petrochemical Manufacturers (AFPM) said that NSR reform was the one change they would make, if it could, to the federal permitting process
- "The NSR program has become a significant impediment to the construction and expansion of manufacturing facilities in the United States"

These comments fall in broad categories and included many recommendations to improve the NSR permitting program. Most of the comments can be parsed into one of four categories:

1. Changes that will streamline the permitting process and certainty
2. Changes to the applicability determination
3. Changes to the BACT determination
4. Changes to Ambient Impact Analysis

Based on the lessons learned from the 2002/2003 reform efforts, it is possible to understand which of the recommendations can be accomplished by policy and could occur in the relatively short-term future, which require regulatory updates and thus are probably five or more years off before being implemented, and which might require amendments to the Clean Air Act, which are unpredictable but will also include follow-on regulations and thus have the longest time frame to implementation.

Recommendations Regarding Streamlining and Certainty

- Redefine State vs. EPA Role defaulting to state leadership and avoiding EPA second-guessing -*This can be accomplished by policy and is consistent with the current Administration's approach*
- Rethink "Begin Actual Construction" allowing some construction at risk - *It should be possible to accomplish this by policy. Some State SIP approved NSR programs actually use this approach*
- Reduce the need to rely upon a library of more than 700 guidance documents -*Reliance on guidance can be reduced, but there will still be a need and a role for guidance.*
- Update guidance documents and put into an easy to understand form - *This should happen. There is no reason that the guidance library is not better maintained.*
- Update and codify the 1990 draft New Source Review Workshop Manual - *The Manual should be updated. The Air & Waste Management Association, in fact, has just released an update to fill the vacuum created by EPA. It is disappointing that such an important guidance manual has not been updated in 27 years. Codifying the Manual would require rulemaking and is not likely to occur in the near term.*
- Add rigor to the "completeness determination" - *This can be accomplished by policy*
- Define RMMR - e.g. as a percentage of new unit cost - *The author agrees that the RMMR definition needs improvement. Use of this metric, i.e. percentage of new unit cost did not survive the prior effort to streamline the NSR rules. Some people view such an approach as inconsistent with the CAA and thus this approach might require revisions to the CAA. This is not to say that the existing definition of RMMR could not be updated by policy.*

Recommendations Regarding Applicability

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- Use the NSPS hourly emissions applicability test for the NSR trigger or use the hourly emissions to trigger the significant emissions increase test – *this approach is very similar to a potential to potential emissions test and faces the challenges previously discussed. It may require an update to the CAA.*
- Provide a definition of “project” to address uncertainty around project aggregation – *See the prior discussion. A rule is ready to be implemented*
- Reinstate the Pollution Control Policy – *see the prior discussion but this would appear to require an update to the CAA.*
- Eliminate the need to consider emissions increases from non-modified affected emission units – *this is an approach to resolving the debottlenecking challenge and could potentially be resolved through policy or rulemaking.*
- Allow Project Netting – *see prior discussion. This was the policy once and could easily be implemented by finalizing the pending proposal.*
- Develop source-specific major modification definitions for the 28 source categories akin to Permits by Rule – *this would require rule revisions and thus is a longer term change*

BACT/LAER Recommendations

- Rethink BACT Process: Top-Down is 30 years old – *The BACT Process is policy so this can be accomplished as a policy update or by rule.*
- Expand the economic analysis to include job losses and other costs – *This is a policy decision*
- Reconsider Clean Unit Exemption – *See prior discussion as this might require an amendment to the CAA*
- Rethink SERs – *for example, GHGs might be 250,000 tpy – this would require rulemaking. EPA’s pending proposal for GHGs could be finalized relatively quickly. For other pollutants, it is not a short-term effort.*
- Make clear that CCS is not BACT for refineries – *EPA could issue a policy document on this topic.*

- Use NSPS and MACT as presumptive BACT – *This might require an update to the CAA as BACT is a defined CAA term.*
- Submit the Top-Down BACT process to review and comment – *In essence this means codifying the Top-Down BACT process and would require rulemaking. Although this could be accomplished over time the benefits might be elusive.*
- Issue consistent cost guidance - *This does not require rulemaking by definition*
- Rethink LAER using Offsets as a backstop – *this might require changes to the CAA as LAER is a defined term in the Act.*

Ambient Impact Analysis and Related Issues Including Emissions Offsets

- Addressing Dispersion Model Conservatism & Worst-Case assumptions – *Policy can be used to address such issues as emissions variability, meteorology variability, and background concentration variability among other issues.*
- Address the use of Ambient Monitoring vs Dispersion Modeling results where current policy defaults to model results – *policy updates can make a significant difference.*
- Rethink role of EPA and Model Clearinghouse – *a collaborative state approach could resolve bottlenecks created by the Model Clearinghouse.*
- Availability (or Unavailability) of Emissions Offsets especially in Areas of the Country where Emissions Offsets are Constrained such as the Northeast, California and Rural communities that have no significant industry but are Ozone or PM_{2.5} Non-attainment areas – *regulatory changes could be used to secure some relief. These include expanding areas where offsets may originate, expanding the contemporaneous time period, and lifting certain restrictions on generating offsets at minor sources.*

Conclusions

There are many opportunities to improve the NSR permitting program. The lowest hanging fruit are those changes and improvements that can be accomplished by policy or regulations that are ready now to be promulgated. For the refining sector, many of the most important suggested improvements can be accomplished by such updates including better definition of the Project, use of Project netting and the need to consider emissions increases from units that are unchanged. Some changes, however, require rule revision or

statute revision. These are not likely to occur in the short-term and should be addressed as part of a longer term look at regulatory reform. Regulatory changes do happen. The 2002 Reforms prove the benefit of updating the regulation but the time to make such changes is measured in more than a few years or a decade. The best approach is to understand which updates can be accomplished by policy and which deserve more attention through a more intensive effort.

WJC-N 5400 + Ex. 6 - Personal Privacy Participant Code: (b) (6)

(b) (6)

Wehrum, Bill

4:15 PM – 5:00 PM Meet with Lignite Energy Council (Confirmed)

WJC-N 5400

Wehrum, Bill

5:00 PM – 6:00 PM **Free**

After 6:00 PM **Free**

▲ Thu, Dec 7

Before 8:00 AM **Free**

8:00 AM – 8:30 AM **Free**

8:30 AM – 9:00 AM Meet with the Ute Tribe (Confirmed)

WJC-N 5400 + Mike Koerber by video

Wehrum, Bill

9:00 AM – 9:30 AM Management Roundtable

WJC-N 5400 + Dial: (b) (6) Conference ID: (b) (6)

Participant Code: (b) (6)

Wehrum, Bill

9:30 AM – 10:00 AM Motorpool from EPA WJC-N Courtyard to Auto Alliance Speech

Black Chevy Volt, Tag: (b) (6)

Wehrum, Bill

10:00 AM – 11:00 AM Auto Alliance Board Speech (Confirmed)

Auto Alliance office – 803 7th Street, NW Suite 300

(Office is located on the corner of 7th Street and H Street NW)

Wehrum, Bill

11:00 AM – 11:05 AM **Free**

11:05 AM – 11:30 AM Motorpool from Auto Alliance Speech to EPA

Black Chevy Volt, Tag: (b) (6)

Wehrum, Bill

11:30 AM – 12:30 PM OTAQ Fuels Weekly

WJC-N 5400 + Video with AA + (b) (6)

Participant Code: (b) (6)

Wehrum, Bill

12:30 PM – 1:00 PM HOLD – Management Time

1:00 PM – 1:15 PM **Free**

1:15 PM – 2:00 PM Limetree Bay Terminals (LBT) Refinery, St. Croix, U.S. Virgin Islands

WJC-N 5400 + Video with OAQPS + (b) (6)

Participant Code: (b) (6)

Wehrum, Bill

2:00 PM – 2:30 PM General with OGC/Ethics

Bill's Office, WJC-N Room 5406A

Wehrum, Bill

■	2:30 PM – 3:00 PM	<u>Motorpool from EPA WJC-N Courtyard to Hunton</u> Black Chevy Volt, Tag# (b) (6) Wehrum, Bill
■	3:00 PM – 4:00 PM	<u>Speech at Hunton with American Electric Power, The Southern Company, Duke Energy, Dominion Energy, and the Utility Air Regulatory Group (Confirmed)</u> Hunton & Williams Offices, 2200 Pennsylvania Avenue NW - 9th Floor Wehrum, Bill
□	4:00 PM – 4:05 PM	Free
■	4:05 PM – 4:30 PM	<u>Motorpool from Hunton to EEOB</u> Black Chevy Volt, Tag# (b) (6) Wehrum, Bill
■	4:30 PM – 5:00 PM	<u>WAVES submitted by Shanita</u>
▨	5:00 PM – 6:00 PM	<u>NADA CAFE-GHG</u> Cordell Hull, EEOB 208 (WAVES link and Call-in info located in Calendar notes) Delahoyde, Magdelana A. EOP/WHO
■	After 6:00 PM	Free

▲ **Fri, Dec 8**

□	All Day	<u>Telework: Emily Atkinson</u>
■	Before 8:00 AM	Free
□	8:00 AM – 9:45 AM	Free
▨	9:45 AM – 10:15 AM	<u>Briefing: OAR/OECA Update</u> Administrator's Office (b)(6) Pruitt Cal.
□	10:15 AM – 10:20 AM	Free
■	10:20 AM – 10:30 AM	<u>Motorpool from EPA Courtyard to 726 Jackson Place NW</u> Black Chevy Volt, Tag# (b) (6) Wehrum, Bill
■	10:30 AM – 12:00 PM	<u>WH Meeting – Climate Diplomacy PCC (Confirmed)</u> White House Conference Center (WHCC), 726 Jackson Place, half a block North of the White House Wehrum, Bill
□	12:00 PM – 12:05 PM	Free
■	12:05 PM – 12:30 PM	<u>Motorpool from Jackson Place to EPA</u> Black Chevy Volt, Tag# (b) (6) Wehrum, Bill
▨	12:30 PM – 1:00 PM	(b)(6) DPP- Cancelled Meeting [REDACTED] [REDACTED]
■	1:00 PM – 1:30 PM	<u>Scheduling Meeting</u> WJC-N 5400 + Dial: (b) (6) Conference ID: (b) (6) Participant Code: (b) (6)

To: Atkinson, Emily[Atkinson.Emily@epa.gov]
Cc: Millett, John[Millett.John@epa.gov]; DeLuca, Isabel[DeLuca.Isabel@epa.gov]; Loving, Shanita[Loving.Shanita@epa.gov]
From: Jaber, Makram
Sent: Mon 11/27/2017 1:18:20 PM
Subject: RE: Invitation to speak
Even Information Form -- Wehrum -- 12-7-17 67350084 1-c.DOCX

Hi Emily,

Thank you! Thursday, December 7 at 3:00 pm works for us. We greatly appreciate the AA's willingness to speak to our group.

Please find attached the completed event form.

Please let me know if you need other information.

Best Regards.

Makram Jaber

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Wednesday, November 22, 2017 2:25 PM
To: Jaber, Makram
Cc: Millett, John; DeLuca, Isabel; Loving, Shanita
Subject: FW: Invitation to speak

Hi Makram,

Bill Wehrum has reviewed this request and asked that I get in touch with you to make arrangements for him to participate in this event.

It looks like we could fit this in as a one hour speech at the Hunton office on Thursday, December 7 at 3:00pm. I will hold that time on Bill's calendar until I hear back from you, so please advise if this could work on your end.

Also, fill out and return the attached event form no later than Friday, December 1.

Thank you.

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Jaber, Makram [<mailto:mjaber@hunton.com>]
Sent: Tuesday, November 21, 2017 6:21 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Invitation to speak

Dear Bill,

On behalf of American Electric Power, The Southern Company, Duke Energy, Dominion Energy, and the Utility Air Regulatory Group, I am pleased to invite you to speak to our group regarding air regulations and regulatory outlook. Our meeting is on the afternoon of Thursday, December 7, and the morning of Friday, December 8. We are flexible in terms of what time you

would speak to us within those periods, so we ask you to let us know what time would be best for you.

Best Regards,

Makram



Makram Jaber

Partner

mjaber@hunton.com

p 202.955.1567

f 202.828.3750

[bio](#) | [vCard](#)

Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037

hunton.com

This communication is confidential and is intended to be privileged pursuant to applicable law. If the reader of this message is not the intended recipient, please advise by return email immediately and then delete this message and all copies and backups thereof.



Clean Air Act: Update on Stationary Source Regulations

Presentation for American Electric Power, The Southern Company,
Duke Energy, Dominion Energy,
and the Utility Air Regulatory Group

December 7, 2017

William L. Wehrum
Assistant Administrator
Office of Air and Radiation

Outline

- ▶ Air Quality Trends
- ▶ Clean Power Plan
- ▶ Mercury and Air Toxics Standards
- ▶ NAAQS Implementation
 - ▶ Ozone
 - ▶ SO₂
- ▶ Good Neighbor Transport SIPS Ozone NAAQS
- ▶ Cross State Air Pollution Rule
- ▶ Regional Haze
- ▶ Permitting

Air Quality Trends

► **Emissions are down as economy grows:**

- Between 1970 and 2016, combined emissions of the six common pollutants (PM_{2.5} & PM₁₀, SO₂, NO_x, CO, and Pb) dropped by 73%
- Since 2000, number of days reaching “Unhealthy for Sensitive Groups” or higher on the Air Quality Index decreased 66% (based on ozone and PM_{2.5} measurements in 35 major cities)
- Since 2010, no violations in NAAQS standards for CO and NO₂
- Visibility in national parks and wilderness areas has improved over the majority of the 155 areas monitored by EPA and other agencies

► **Areas for improvement:**

- Levels of ground-level ozone and fine particle pollution have decreased over the years, but continue to pose air quality problems in many areas
- EPA is continuing to work with partners to ensure healthy air for all communities

GHG Regulations/Clean Power Plan (CPP)

- ▶ **Executive Order 13783 – Promoting Energy Independence and Economic Growth**
 - ▶ March 28, 2017: Directed the EPA to review the CPP and the Clean Air Act (CAA) section 111(b) GHG NSPS and, if appropriate, to initiate reconsideration proceedings to suspend, revise or rescind the rule(s)
- ▶ **Proposed CPP repeal**
 - ▶ On October 16, 2017, EPA proposed that the CPP exceeds the EPA's statutory authority and would be repealed
 - Public comment period open through January 16, 2018
 - November 28 – 29, 2017: Public hearing in Charleston, West Virginia. More than 200 individuals presented oral testimony
- ▶ **Advance Notice of Proposed Rulemaking**
 - ▶ Coming soon -- currently under interagency review
 - ▶ Will solicit information on systems of emission reduction that are in accord with the legal interpretation in the proposed CPP repeal (i.e., those that are applicable at and to an individual source).
 - ▶ Will also solicit information on compliance measures and state planning requirements
- ▶ **New Sources**
 - ▶ EPA continues to review the 111(b) rule, as required under the Executive Order

Mercury and Air Toxics Standards (MATS)

- ▶ **Final MATS Rule:** in place for affected coal and oil-fired power plants
- ▶ **Section 202(c) orders:** EPA works with DOE to address any grid reliability concerns
- ▶ **Legal Challenges in abeyance**
 - ▶ Outstanding challenges to final rule include *ARRIPA v. EPA* (related to waste coal provisions) and *Murray Energy v. EPA* (related to supplemental Appropriate & Necessary finding).

Ozone NAAQS Implementation

► **2008 Ozone NAAQS Implementation**

- EPA continues to review required SIPs submitted by states and to determine whether nonattainment areas are attaining the 2008 standard by their respective attainment dates

► **2015 Ozone NAAQS Implementation**

- On October 1, 2015, EPA revised the 8-hour primary and secondary NAAQS for ozone by lowering the level from 75 parts per billion (ppb) to 70 ppb.
- On November 6, 2017, EPA issued final designations of “attainment/unclassifiable” for 85% of the counties in the U.S.
- EPA is continuing to work with states on the remaining areas and intends to address these areas in a separate future action.

SO2 NAAQS Implementation

- ▶ **Round 3 Proposed Designations** sent to states and tribes in August of 2017
- ▶ **Round 3 Final designations** to be completed by December 31, 2017
 - ▶ Will designate all areas of the country, except those areas where states have sited new monitors consistent with the SO2 Data Requirements Rule
- ▶ **Fourth round** to be completed by December 31, 2020
 - ▶ Will designate all remaining areas (approx. 50 areas)

Ongoing NAAQS Implementation

- ▶ **NAAQS** – Consent Decree to finalize review of primary NAAQS for NO₂ and SO₂
 - ▶ **NO₂** – On July 14, 2017, EPA issued the proposed rule to retain, without revision, the health based or primary NAAQS for NO₂; final action required April 6, 2018
 - ▶ **SO₂** – In August, EPA issued the 1st draft Policy Assessment; required to issue final ISA in December 2017, proposal May 25, 2018, and final January 28, 2019
 - ▶ **PM and Secondary NO_x/SO_x** – Reviews are ongoing. Final actions are projected for 2022.

Cross-State Air Pollution Rule (CSAPR)

- ▶ **CSAPR** (finalized July 2011) addresses interstate transport obligations for the 1997 ozone NAAQS (and the 1997 and 2006 PM_{2.5} NAAQS)

- ▶ **CSAPR Update** (finalized September 7, 2016) updates CSAPR ozone season program by addressing summertime transport of ozone for the 2008 ozone NAAQS in the eastern US
 - Covers 22 eastern states and sets power sector ozone season NO_x emission budgets for each covered state starting with the 2017 ozone season (May 1, 2017)

 - Establishes a new ozone season NO_x allowance trading program for CSAPR Update states

 - Facilitates a smooth transition by creating a starting bank of allowances, converted from 2015-2016 allowances banked under the original CSAPR ozone season NO_x trading program

CSAPR Update (*cont.*)

► **Emissions impact:**

- Preliminary data indicate that the 2017 ozone season NO_x were 21 percent (78,000 tons) below 2016 emissions
- Collectively, total emissions across the region were 7 percent (23,000 tons) below 2017 CSAPR update budgets.

Good Neighbor Transport SIPs Ozone NAAQS

- ▶ **“Good Neighbor” Provision:** Section 110(a)(2)(D)(i)(I) requires upwind states to implement a share of the emission reductions needed for downwind areas to attain and maintain the NAAQS

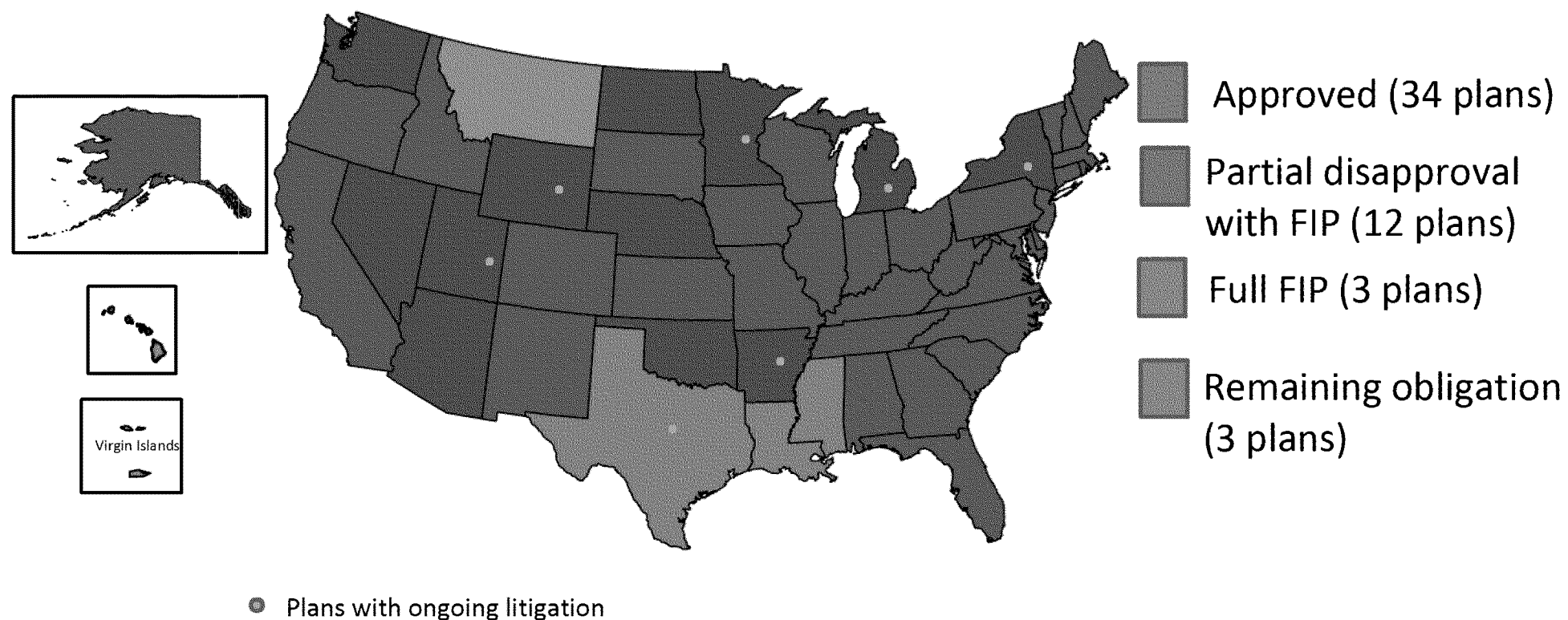
- ▶ **Outstanding good neighbor obligations** for the 2008 ozone NAAQS
 - ▶ CSAPR Update was a partial remedy for 21 eastern states (full remedy for TN)
 - ▶ CSAPR Update Rule did not address 2008 transport obligations for western states
 - ▶ To help states develop, supplement or resubmit their good neighbor SIPs for the 2008 standards, EPA signed the **“Supplemental Transport Memo”** on October 27, 2017

Regional Haze

► Background:

- The **Regional Haze Rule** calls for state and federal agencies to work together to improve visibility in 156 national parks and wilderness areas
- The first State plans for regional haze were due in December 2007. States, tribes, and five multi-jurisdictional regional planning organizations worked together to develop the technical basis for these plans.
- Comprehensive periodic revisions to these initial plans are currently due in 2021, 2028, and every 10 years thereafter.

Status of Regional Haze SIP and FIP Actions (First Implementation Period, November 2017)



Permit Streamlining Actions for New Source Review (NSR) and Title V Operating Permits

- ▶ Presidential memorandum signed January 24, 2017, titled **“Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing”**
 - ▶ Department of Commerce was in the lead and provided an opportunity for public comment on ways to achieve the goals of the memorandum.
 - The final report was issued on October 6, 2017 and actions plans are due December 31, 2017. Included 11 recommendations involving NSR and Title V permitting.
- ▶ **“Final Report on Review of Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources Under Executive Order 13783,”** issued on October 25, 2017
 - ▶ Identifies four key initiatives:
 - Comprehensive new source review reform
 - National ambient air quality standards reform
 - Robust evaluations of the employment effects of EPA regulations
 - A sector-based outreach program

Permitting Actions Underway

- ▶ Finalize **“Guidance on Significant Impact Levels (SILs) for Ozone and PM_{2.5} in the Prevention of Significant Deterioration (PSD) Permitting Program”**
 - ▶ Compliance demonstration tool to help determine whether a proposed PSD source causes or contributes to a violation of the NAAQS or PSD increment (draft issued in August 2016 for comment; comments being considered)

- ▶ Finalize **“Revisions to the Petition Provisions of the Title V Permitting Program”**
 - ▶ Increase transparency and stakeholder understanding of the petition process, as well as ensure the Agency is able to efficiently address related programmatic and air quality issues (proposed August 2016; comments being considered)



Q&A

To: Keith, Jennie[Keith.Jennie@epa.gov]
Cc: Hupp, Millan[hupp.millan@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Ford, Hayley
Sent: Tue 4/3/2018 9:55:25 PM
Subject: Ethics Approval: Personal Event--Nats Season Celebration
[image2018-04-03-174544.pdf](#)

Hello Jennie,

The Administrator and his spouse were invited to the attached personal event. It is a celebration for the Nats new season hosted by George and Mari Will and the Lerner Family. George Will is a personal friend of the Administrator's and a conservative political commentator (media). The event is held at the Will residence. Ted Lerner is managing principal owner of the Washington Nationals baseball team, as well as a real estate developer. The Administrator does not have a personal relationship with the Lerner family; his relationship is with George Will.

Can you send your ethics counsel on him attending with his spouse in his personal capacity?

Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

The Lerner Family
&
George and Mari Will

invite you
to celebrate

THE NEW SEASON



Cocktails and Buffet

Wednesday, April 11, 2018

6-9 o'clock

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

party@baseballhabit.com
Valet Parking

Sarah Walton
Business Attire

Message

From: Bodine, Susan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C2CC6086FCC44C3BE6B5D32B262D983-BODINE, SUS]
Sent: 9/14/2017 8:49:41 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject:
Attachments: **Ex. 7 - Law Enforcement**

Want to confer with you on this meeting request.

From: Kelley, Rosemarie
Sent: Thursday, September 14, 2017 1:29 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Vinch, James <Vinch.James@epa.gov>
Subject: **Ex. 7 - Law Enforcement**

Susan,

Ex. 5 - Attorney Client; Deliberative Process; Ex. 7 - Law Enforcement

If you have questions, or would like a further briefing on this case, please let us know.

Regards,
Rosemarie
Rosemarie A. Kelley, Acting Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/15/2017 9:34:27 PM
To: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]

Subject:

Attachments:

Ex. 7 - Law Enforcement

Hi,

Ex. 5 - Deliberative Process

Justina

From: Bodine, Susan
Sent: Thursday, September 14, 2017 4:50 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Ex. 7 - Law Enforcement

Ex. 5 - Deliberative Process

From: Kelley, Rosemarie
Sent: Thursday, September 14, 2017 1:29 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Vinch, James <Vinch.James@epa.gov>
Subject: Ex. 7 - Law Enforcement

Susan,

Ex. 7 - Law Enforcement; Ex. 5 - Attorney Client; Deliberative Process

Ex. 7 - Law Enforcement; Ex. 5 - Attorney Client; Deliberative Process

If you have questions, or would like a further briefing on this case, please let us know.

Regards,
Rosemarie
Rosemarie A. Kelley, Acting Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
202-564-4014

April 28, 2017

Mr. Kevin S. Minoli
Acting General Counsel
Designated Agency Ethics Official
U.S. EPA (2310A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Minoli:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Assistant Administrator for the Office of Enforcement and Compliance Assurance of the United States Environmental Protection Agency.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

If I rely on a de minimis exemption under 5 C.F.R. § 2640.201(b) with regard to any of my financial interests in sector mutual funds, I will monitor the value of those interests. If the aggregate value of my interests in sector mutual funds that concentrate in any one sector exceeds \$50,000, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of any holdings of the funds that are in the specific sector in which the funds concentrate, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), or obligations of the United States.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I will meet in person with you during the first week of my service in the position of Assistant Administrator in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely yours,



Susan Parker Bodine

Message

From: Carin Walters [CWalters@conservative.org]
Sent: 5/10/2018 4:18:34 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception
Attachments: ACUF Reception Invitation.pdf

Hi Kevin,

Thank you for speaking with me a few minutes ago. I wanted to confirm with you that the reception this evening is hosted by the American Conservative Union Foundation (a 501c3 educational organization). I've attached the invitation clarifying that detail.

Please let me know if you need anything else.

Carin

Carin Walters
Director of CPAC & Events
American Conservative Union

-----Original Message-----

From: Minoli, Kevin [mailto:Minoli.Kevin@epa.gov]
Sent: Thursday, May 10, 2018 11:09 AM
To: Carin Walters <CWalters@conservative.org>
Subject: Invitation for Adm Pruitt at Tonight's Reception

Dear Ms. Walters- I am the Designated Agency Ethics Official at EPA and Adm Pruitt's Office reached out to us to evaluate how the ethics rules apply to this invitation. After some initial conversations here I wanted to see if you were able to share whether you have invited other political appointees and, if so, have they confirmed? We often benefit from connecting with our colleagues at other agencies and working through these issues consistently.

Thank you, Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040
Mobile: 202-297-6910

You're Invited

The American Conservative Union Foundation
will be hosting a private cocktail reception.

Thursday, May 10, 5:00 PM

Ex. 6 - Personal Privacy

Please RSVP to Carin Walters: cwalters@conservative.org.



THE
AMERICAN
CONSERVATIVE
UNION
FOUNDATION

*The American Conservative Union Foundation is a
501c3 educational organization. This is neither a political
event, nor does it involve any form of advocacy*

Message

From: Packard, Elise [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6D4AD4C6ABB24F54A2C8C16FA17BA0FD-PACKARD, EL]
Sent: 3/20/2018 12:42:16 AM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: Fw: Ethics Approval: Events with VPOTUS
Attachments: A1A ATLANTA Roundtable SP 03 23 18.docx; ATT00001.htm; Georgia GOP.DOCX; ATT00002.htm; 2018-03-23 VP Event Proposal Atlanta, GA.DOCX; ATT00003.htm; GROUND RULES FOR POLITICAL EVENTS.doc; ATT00004.htm; HOW TO CALCULATE POLITICAL TRAVEL.doc; ATT00005.htm; HOW TO REVIEW POLITICAL INVITATIONS.doc; ATT00006.htm

From: Leopold, Matt
Sent: Monday, March 19, 2018 7:33 PM
To: Packard, Elise
Subject: Fwd: Ethics Approval: Events with VPOTUS

Sent from my iPhone

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: March 19, 2018 at 7:02:10 PM EDT
To: "Leopold, Matt" <Leopold.Matt@epa.gov>
Subject: FW: Ethics Approval: Events with VPOTUS

From: Fugh, Justina
Sent: Monday, March 19, 2018 5:29 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: FW: Ethics Approval: Events with VPOTUS

Hi Hayley,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The rules for Mr. Pruitt are very different than those for the Vice President, who is not subject to the Hatch Act. For Mr. Pruitt to attend, he must do so only in his personal capacity, and the organization cannot refer to him in any way with reference to his official title or position. He cannot be introduced or appear on any brochure or email as the EPA Administrator.

Please see my comments on the email you sent. I've copied Jeanne Duross, an ethics attorney, for her information as she is picking up Hatch Act as an area of specialty in our group. I've

attached the Hatch Act ground rules and other documents prepared by OGC/Ethics as a reminder to us all.

YOU WROTE: The Administrator has been invited to travel to Atlanta next Friday with the Vice President on Air Force 2 and attend the 3 attached events. One of the events ("2018-03-23 VP Event Proposal Atlanta, GA") is an official tax reform event with no political or fundraising component.

JUSTINA:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The other 2 events attached (America First Action Roundtable & Georgia Republican Party dinner) are political events and I assume he would need to attend in his personal capacity. Can you review and give your guidance? If given clearance, he will attend these events.

JUSTINA: If he attends, it must be in his personal capacity only and absolutely cannot solicit, accept or receive any political contributions or engage in fundraising. Does he still want to attend? Let's coordinate so that I know when OGC/Ethics should write to Ann Pierce (America First Roundtable) and Carmen Bergman (Georgia Republican Party) with the Hatch Act ground rules.

The information below will be helpful in reviewing:

-

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

-

Ex. 5 - Deliberative Process

JUSTINA:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- **America First Action Roundtable:** Small event, no formal speaking portion.
- **Georgia Republican Party Dinner:** Large dinner, have offered a speaking role if he'd like one (very brief). If you could provide guidance both on him speaking vs. not speaking (would assume if he's cleared to, that he will want to speak).

JUSTINA: He cannot use his EPA position, title or authority in connection with the political activity. The GA GOP needs to get our ground rules so that we can see who is being invited because he can't encourage or discourage the political activity of people directly regulated by EPA or use his EPA official title/authority in connection with the activity. And he can't ask for money at all.

- **POCs:** If you need to reach out to the event organizers, they are listed on the attached forms.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

JUSTINA: Let's coordinate.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ford, Hayley
Sent: Thursday, March 15, 2018 6:23 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Ethics Approval: Events with VPOTUS

Justina,

The Administrator has been invited to travel to Atlanta next Friday with the Vice President on Air Force 2 and attend the 3 attached events. One of the events ("2018-03-23 VP Event Proposal Atlanta, GA") is an official tax reform event with no political or fundraising component. The other 2 events attached (America First Action Roundtable & Georgia Republican Party dinner) are political events and I assume he would need to attend in his personal capacity. Can you review and give your guidance? If given clearance, he will attend these events.

The information below will be helpful in reviewing:

- **Costs:**

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- **America First Action Roundtable:** Small event, no formal speaking portion.
- **Georgia Republican Party Dinner:** Large dinner, have offered a speaking role if he'd like one (very brief). If you could provide guidance both on him speaking vs. not speaking (would assume if he's cleared to, that he will want to speak).
- **POCs:** If you need to reach out to the event organizers, they are listed on the attached forms.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Packard, Elise
Sent: Tue 3/20/2018 4:02:32 PM
Subject: FW: UPDATE to our earlier advice about America First Policies

FYI

Elise B. Packard
Associate General Counsel for Civil Rights and Finance
U.S. EPA Office of General Counsel, Rm. 7353C
(202) 564-7729

From: Fugh, Justina
Sent: Tuesday, March 20, 2018 11:38 AM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>
Subject: UPDATE to our earlier advice about America First Policies

Hi Hayley,

OGC/Ethics had earlier indicated to you that AMERICA FIRST POLICIES should be considered a partisan political group for the purposes of the Hatch Act. **Ex. 5 - Deliberative Process** given the fact that the organization is a 501(c)(4). Although the entity's website does not indicate its specific non-profit status under 501(c), OGC/Ethics has since found other sources that identify AMERICA FIRST POLICIES as a 501(c)(4). Therefore, upon further review, we are *revising* our earlier advice. OGC/Ethics now concludes that the Administrator can attend the AMERICA FIRST POLICIES event in his official EPA capacity.

According to the Office of Special Counsel (OSC), the independent agency that oversees compliance with the Hatch Act, 501(c)(4) organizations should not be considered to be partisan political groups for purposes of the Hatch Act:

Partisan political groups or organizations" are committees, clubs, and other organizations that affiliate with a political party or candidate for political office in a partisan election. The term also includes committees, clubs, and other organizations that are organized for a partisan political purpose. 501(c)(4) organizations are organized to promote social welfare and may participate in some political activity on behalf of or in opposition to candidates for public office, provided such activity is not their primary activity. In light of their purpose, OSC has concluded that they are not partisan political groups for purposes of the Hatch Act.

So the Administrator can attend the AMERICA FIRST POLICIES event with the Vice President. But, as you indicated in your message, we will have to sort out the travel costs based on the hard time calculation. And please send me the reimbursement agreement so that I can include it in my files. Also, let's coordinate on the other two events so that I can send the ground rules over to those partisan groups.

Thanks for your patience on this, Hayley!
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Monday, March 19, 2018 5:29 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: FW: Ethics Approval: Events with VPOTUS

Hi Hayley,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The rules for Mr. Pruitt are very different than those for the Vice President, who is not subject to the Hatch Act. For Mr. Pruitt to attend, he must do so only in his personal capacity, and the organization cannot refer to him in any way with reference to his official title or position. He cannot be introduced or appear on any brochure or email as the EPA Administrator.

Please see my comments on the email you sent. I've copied Jeanne Duross, an ethics attorney, for her information as she is picking up Hatch Act as an area of specialty in our group. I've attached the Hatch Act ground rules and other documents prepared by OGC/Ethics as a reminder to us all.

YOU WROTE: The Administrator has been invited to travel to Atlanta next Friday with the Vice President on Air Force 2 and attend the 3 attached events. One of the events ("2018-03-23 VP Event Proposal Atlanta, GA") is an official tax reform event with no political or fundraising component.

JUSTINA: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The other 2 events attached (America First Action Roundtable & Georgia Republican Party dinner) are political events and I assume he would need to attend in his personal capacity. Can you review and give your guidance? If given clearance, he will attend these events.

JUSTINA: If he attends, it must be in his personal capacity only and absolutely cannot solicit, accept or receive any political contributions or engage in fundraising. Does he still want to attend? Let's coordinate so that I know when OGC/Ethics should write to Ann Pierce (America First Roundtable) and Carmen Bergman (Georgia Republican Party) with the Hatch Act ground rules.

The information below will be helpful in reviewing:

Ex. 5 - Deliberative Process

JUSTINA: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

JUSTINA: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- **America First Action Roundtable:** Small event, no formal speaking portion.
- **Georgia Republican Party Dinner:** Large dinner, have offered a speaking role if he'd like one (very brief). If you could provide guidance both on him speaking vs. not speaking (would assume if he's cleared to, that he will want to speak).

JUSTINA: He cannot use his EPA position, title or authority in connection with the political activity. The GA GOP needs to get our ground rules so that we can see who is being invited because he can't encourage or discourage the political

activity of people directly regulated by EPA or use his EPA official title/authority in connection with the activity. And he can't ask for money at all.

- **POCs:** If you need to reach out to the event organizers, they are listed on the attached forms. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

JUSTINA: Let's coordinate.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ford, Hayley
Sent: Thursday, March 15, 2018 6:23 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Ethics Approval: Events with VPOTUS

Justina,

The Administrator has been invited to travel to Atlanta next Friday with the Vice President on Air Force 2 and attend the 3 attached events. One of the events ("2018-03-23 VP Event Proposal Atlanta, GA") is an official tax reform event with no political or fundraising component. The other 2 events attached (America First Action Roundtable & Georgia Republican Party dinner) are political events and I assume he would need to attend in his personal capacity. Can you review and give your guidance? If given clearance, he will attend these events.

The information below will be helpful in reviewing:

- **Costs:**

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- **America First Action Roundtable:** Small event, no formal speaking portion.
- **Georgia Republican Party Dinner:** Large dinner, have offered a speaking role if he'd like one (very brief). If you could provide guidance both on him speaking vs. not speaking (would assume if he's cleared to, that he will want to speak).
- **POCs:** If you need to reach out to the event organizers, they are listed on the attached forms. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

Message

From: Jackson, Ryan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: 7/11/2017 6:34:17 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: Fwd: Scott Pruitt Request to speak
Attachments: Mavericks Conference Request (Administrator Pruitt).pdf; ATT00001.htm; Mavericks Conference-Hatch Act Guidance Memo 5.25.17.docx; ATT00002.htm

Ex. 5 - Deliberative Process

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

Begin forwarded message:

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: July 7, 2017 at 8:02:09 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>
Cc: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: FW: Scott Pruitt Request to speak

Hi Ryan,

Ex. 5 - Deliberative Process

Justina

From: Jackson, Ryan
Sent: Friday, July 07, 2017 10:46 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Morris, Madeline <morris.madeline@epa.gov>
Subject: Fwd: Scott Pruitt Request to speak

Justina what would be the constraints in doing this?

Ryan Jackson
Chief of Staff
U.S. EPA

Ex. 6 - Personal Privacy

Begin forwarded message:

From: Kathleen Daly Rooney <Ex. 6 - Personal Privacy>
Date: July 7, 2017 at 10:42:49 AM EDT
To: Jackson.ryan@epa.gov
Subject: Scott Pruitt Request to speak

Good morning Ryan--

Attached is the official invitation for Administrator Pruitt to speak at the
Maverick Pac Annual Conference in DC next weekend. As well, i have attached a
Hatch Act memo that our legal team put together.

I know his schedule is crazy but it would be amazing if he could speak! The idea
would be to have he and Administrator Acosta speak on Saturday evening at
6:30pm about their new experiences in the administration etc.

If saturday does not fit with his schedule-- we would love to find a time friday
night or earlier saturday to hear from him.

Thanks RJ! hope all is well and really hoping that if he can speak it means i can
hang out with you while he is there!!

Kathleen

June 25, 2017

Speaking Request

Administrator Pruitt,

Dates: July 14, 15
Location: Washington, DC
Venue: Dock 5
Duration: 30 minutes

It is our honor to invite you to speak at Mavericks Conference 2017 in Washington, DC July 14th and 15th.

The Mavericks Conference is the annual gathering of successful young professionals interested in public policy issues. Our members work in a variety of industries such as oil & gas, banking, consumer goods, food & beverage, marketing & communications, technology and politics.

Maverick PAC alumni include Sen. Ted Cruz, Sen. Tom Cotton, Rep. Elise Stefanik, Rep. Carlos Curbelo, Rep. Will Hurd, Rep. Ron DeSantis and George P. Bush. Past conference speakers include Secretary Ryan Zinke, White House Chief of Staff Reince Priebus, Gov. Mitt Romney, Gov. Jeb Bush, Carly Fiorina, Gov. Susanna Martinez, Sen. John Cornyn, Mayor Rudy Giuliani, Andy Puzder and Gen. James Conway. Attendance will include Maverick PAC members from across the country as well as today's top opinion leaders and decision makers.

Please feel free to have your team contact our Executive Director Kevin Curran with any questions. He can be reached at (202) 327-1522 or kevin@maverickpac.com.

Thank you for your consideration.

CONFIRMED SPEAKERS

Speaker Paul Ryan
Mark McKinnon
Nancy Brinker
Sen. Lindsey Graham
Rep. Carlos Curbelo
Rep. Francis Rooney
Rep. Roger Williams
Rep. Scott Taylor
Rep. Mike Gallagher
Anthony Scaramucci
Foster Friess
Dr. Kerry Healey
Michelle Rempel, MP
State Rep. Niraj Antani
HI GOP Leader Andria Tupola
Ashley Carter, DC Board of
Education Member



Morgan Ortagus



Fritz Brogan



Kathleen Rooney

Conference Chairs

** More speakers will be
announced in the coming
weeks!*

TO: Kevin Curran

FROM: Jim Tyrrell

DATE: May 23, 2017

SUBJECT: Hatch Act Implications of Executive Branch Employees Speaking at Mavericks Conference

You have asked us to provide an analysis of whether Executive Branch employees would be permitted to speak at this summer's Mavericks Conference in light of certain restrictions on political activity imposed under the Hatch Act (the "Act"). The Mavericks Conference is paid for by and a project of Mavericks, Inc., a 501(c)(4) social welfare organization, which is not considered a partisan political group under the Hatch Act.

The Act limits certain political activities of federal employees.¹ The intent of the Act is to maintain a federal workforce that is free from partisan political influence or coercion. Under the Act, a covered employee may not use his official title or position while engaging in political activity. Political activity is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.² While the Act restricts an employee from participating in certain political activities, like soliciting, accepting, and receiving political contributions, it does not prohibit participating in the nonpartisan activities of a social welfare and public policy organizations like Mavericks, Inc.

According to Office of Special Counsel ("OSC") guidance, a 501(c)(4) social welfare organization is not considered a partisan political group for purposes of the Act because its primary activity is not political.³ Even if this were a political event, the OSC provides that an employee can speak at a political event as long as he or she does not appear in his or her official capacity, is not on duty, and does not solicit political contributions.⁴

In this case, Executive Branch employees are not prohibited from speaking at the Mavericks Conference because it is funded by a 501(c)(4) social welfare organization and the agenda will be limited to policy discussions. Even if limited political activity does occur at the

¹ 5 U.S.C. §§ 7321-7326.

² 5 C.F.R. § 734.101.

³ Hatch Act: Federal FAQs," Office of Special Counsel, <https://osc.gov/Pages/HatchAct-FAQs.aspx> (accessed May 11, 2017).

⁴ *Id.*

event, Executive Branch employees are permitted to speak, provided that they do not attend and present in their official capacity, and do not solicit political contributions.

Message

From: Leopold, Matt (OGC) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 5/30/2018 10:08:26 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: Re: APPROVAL: Request for comment for story about coal regulation and Alliance Resource Partners
Importance: High
Flag: Follow up

Sent from my iPhone

On May 30, 2018, at 3:33 PM, Ferguson, Lincoln <ferguson.lincoln@epa.gov> wrote:

For awareness – attached is the email conversation regarding the basketball game between Hayley and Jennie, and below is the ethics approval for the dinner.

Ex. 5 - Deliberative Process

Below

From: Keith, Jennie
Sent: Friday, April 14, 2017 3:45 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Board Meeting Request

Hi Sydney,

There are **no ethics concerns** with respect to this event. See the following for more complete details.

Best, Jennie for OGC/Ethics

White House Ethics Pledge

The White House Ethics Pledge does not allow political appointees to accept gifts from registered lobbyists. The persons extending the invitation are not registered lobbyists or lobbying organizations, therefore the Ethics Pledge is not implicated.

Acceptance of Free Attendance (including a meal)

Because the official has been invited to speak and present information on behalf of the agency, pursuant to 5 CFR 2635.204(g)(1), acceptance of free attendance and any meals provided **on the day of the event** is not considered a gift. The official's participation in the event is viewed as a customary and necessary part of his performance of the event and does not involve a gift to him or to the agency. While free attendance will cover a meal that is provided to all attendees, it does not

cover side events, receptions, and other meals (like a speaker's dinner) that are not open to all attendees.

Financial Disclosure Implications

Because this is not a gift, there are no financial disclosure reporting obligations.

From: Jackson, Ryan

Sent: Wednesday, May 30, 2018 4:34 PM

To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Konkus, John <konkus.john@epa.gov>

Subject: RE: APPROVAL: Request for comment for story about coal regulation and Alliance Resource Partners

Ex. 5 - Deliberative Process

From: Wilcox, Jahan

Sent: Wednesday, May 30, 2018 4:29 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Konkus, John <konkus.john@epa.gov>

Subject: RE: APPROVAL: Request for comment for story about coal regulation and Alliance Resource Partners

Adding Matt.

Ex. 5 - Deliberative Process

Regarding the Alliance Resource dinner on April 26, 2017 at BLT Prime Grant Room at Trump Hotel: Is it appropriate for the EPA administrator to have an off the record dinner with the board of directors and CEO of a coal company that is regulated by the EPA. Did Mr. Pruitt pay for this dinner? Can we have a copy of this payment record, if Mr. Pruitt paid?

- ## **Ex. 5 - Deliberative Process**

You attended a Dec 29 University of Kentucky basketball game, along with you son in seats that the Craft family obtained for you. Did you reimburse the Crafts for these tickets, if so, how much and can we see a cancelled check or other transaction record documenting this payment?

Was it appropriate to accept such access at the game, including being photographed with Mrs. Craft and the player of the game, seats next to the basket, access to the players' entrance as the team coming onto the court?

How did the attendance at the game come about, whose idea was it?

Did you have an ethics review of your attendance at this game?

- **Ex. 5 - Deliberative Process**

FACT CHECK: You have been at events or meetings with Mr. Craft 9 times according to this tally.
Sharing this for fact checking purposes

- **Ex. 5 - Deliberative Process**

From: Lipton, Eric [<mailto:lipton@nytimes.com>]
Sent: Wednesday, May 30, 2018 10:23 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Press <Press@epa.gov>
Cc: Steve Eder <steve.eder@nytimes.com>; Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>
Subject: Request for comment for story about coal regulation and Alliance Resource Partners

Hello Jahan

We are wrapping up work on a piece that is focused on Alliance Resources Partners and its operations, and the interaction of the CEO of Alliance, Joe Craft, with Mr. Pruitt since Mr. Pruitt became EPA administrator. Here are a number of questions we want to ask Mr. Pruitt and the EPA.

We would appreciate a response to the individual questions by the end of the day today.

Thank you in advance

Eric

++ QUESTION: Scott Pruitt and Joe Craft are both from Tulsa and have ties to Kentucky. When did they first meet?

++ QUESTION: Does Mr. Pruitt see Mr. Craft as somewhat of a mentor?

++ QUESTION: Alliance Resources joined RAGA in 2014 for the first time and then became a major supporter. Did Mr. Pruitt play a role in encouraging Alliance to join RAGA?

++ QUESTION: We see that Mr. Pruitt attended the swearing in ceremony for Ambassador Kelly Craft. And correspondence between Joe and Kelly Craft and Mr. Pruitt's staff use first names. It appears as if you and the Crafts are family friends. Is that a fair characterization?

++ QUESTION: Mr. Craft is listed in your calendar as having attended a meeting with Mr. Pruitt and representatives of the Arkansas Department of Environmental Quality on February 24, 2017. What was the purpose of this meeting? Did it occur as described in the schedule?

Time 5:00 PM – 5:30 PM
Subject Becky Keough (ARK DEQ) and Julie Chapman (Sr. Asst. Director and Chief of Law and Policy)
Location Administrator's Office
Show Time As Busy
Joe Craft (b) (6)
Becky Keough (b) (6)

And Julie Chapman, Sr. Asst Director, chief of Law and Policy

++ QUESTION: You attended a Dec 29 University of Kentucky basketball game, along with you son in seats that the Craft family obtained for you. Did you reimburse the Crafts for these tickets, if so, how much and can we see a cancelled check or other transaction record documenting this payment?

++ QUESTION: Was it appropriate to accept such access at the game, including being photographed with Mrs. Craft and the player of the game, seats next to the basket, access to the players' entrance as the team coming onto the court?

++ QUESTION: How did the attendance at the game come about, whose idea was it?

++ QUESTION: Did you have an ethics review of your attendance at this game?

++ QUESTION: Why wasn't the event included on your official schedule, given that you met with the Crafts as well as Gov. Bevin?

++ QUESTION: Regarding the Alliance Resource dinner on April 26, 2017 at BLT Prime Grant Room at Trump Hotel: Is it appropriate for the EPA administrator to have an off the record dinner with the board of directors and CEO of a coal company that is regulated by the EPA. Did Mr. Pruitt pay for this dinner? Can we have a copy of this payment record, if Mr. Pruitt paid?

Time 6:30 PM – 8:30 PM
Subject Dinner with Alliance Resource Partners LP Board of Directors Meeting
Location Trump Hotel; BLT Prime; Grant Room
Show Time As Busy
Topic: similar NMA topics
Location: Trump Hotel; BLT Prime; Grant Room
Staffing:
Attendees: Quarterly Meeting with Directors & Senior Management (16 persons)
POC: Joe Craft; (b) (6)
[REDACTED]

NOTE: Joe will be waiting at the designated entrance

++ QUESTION: Last October, you announced the repeal of the Clean Power Plan in Hazard, KY, Mr. Craft's hometown. Was the location a gesture of appreciation to Mr. Craft? Did he request you make that announcement in Hazard?

++ QUESTION: The ACCCE, which Mr. Craft has chaired since Jan 2016, has at least twice submitted comment letters to EPA urging it to roll back a series of rules that it argues are

unnecessarily hurting the coal industry. You have moved to rollback many of those same rules. Does your action have anything to do with your personal relationship with Joe Craft?

++ QUESTION: A May 2017 letter from ACCCE noted that “The ELG rule, if it remains in place, is projected to cost electricity generators hundreds of millions to billions of dollars and, in combination with the Coal Combustion Residuals (CCR) rule, is already causing coal-fired power plant retirements” It was 10 days later that the EPA announced “EPA Takes Action to Postpone Costly Steam Electric Power Plant Effluent Guidelines Rule” Did you do this to address the request from ACCCE and Mr. Craft?

++ QUESTION: Mr. Craft and Alliance and ACCCE have been supporters of Mr. Pruitt’s political causes or to RAGA in years when Mr. Pruitt was active at RAGA. Is that in anyway a factor in the actions Mr. Pruitt has taken at the EPA relative to coal related issues that are important to Mr. Craft and Alliance?

++ QUESTION: Has Mr. Craft and Alliance Resources received any special treatment from the EPA while Mr. Pruitt has been at the agency?

++ FACT CHECK: You have been at events or meetings with Mr. Craft 9 times according to this tally. Sharing this for fact checking purposes.

3/11/2018	8:30	Speaking Engagement: AEI World Forum	AEI World American Enterprise Institute
12/29/2017		Game at University of Kentucky	Joe Craft University of Kentucky game
10/9/2017	11:30	Energy Dominance Roundtable	Energy gr Energy groups
9/26/2017	17:00	Swearing-in Ceremony for Canadian Ambassador	White Ho White House, Canada
6/29/2017	10:00	Speak at American Coalition for Clean Coal Electrici	EPA Staff, American Coalition for Clean Coal Electricity
6/29/2017	13:15	POTUS Energy Dominance Summit SP/ Topic: Expan	Secretary White House
4/26/2017	18:30	Dinner with Alliance Resource Partners LP Board of Quarterly	Alliance Resource Partners, LP
4/24/2017	13:30	Speaking Engagement: National Mining Association	NMA Boar National Mining Association
2/24/2017	17:00	Becky Keough (ADEQ) and Julie Chapman (Sr. Asst.	Joe Craft, Arkansas Department of Environmental Qual

++ Fact check: In looking at your detailed calendar as well as the web-based calendar that is posted, we do not see that Mr. Pruitt has met with any single environmental group this many times. That is our reading of the published schedules. Fact checking this with you.

Thanks again for your help on this. Available today to clarify anything.

Eric Lipton
The New York Times
Washington Bureau
202 862 0448 office

Ex. 6 - Personal Privacy

mobile
lipton@nytimes.com

<mime-attachment>

Message

From: Duross, Jeanne [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1771DDAF869F40998535D410E5B1A93E-JDUROSS]
Sent: 7/13/2017 3:14:41 PM
To: Morris, Madeline [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f42c86b4a2044779972ac94e098f0304-Morris, Mad]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
CC: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Subject: RE: Scott Pruitt Request to speak

Madeline,

You're welcome! Thanks for letting us know.

-Jeanne

From: Morris, Madeline
Sent: Thursday, July 13, 2017 11:13 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Scott Pruitt Request to speak

FYI: The Administrator won't be able to attend on Saturday. Thanks for your help with this!

From: Minoli, Kevin
Sent: Thursday, July 13, 2017 12:20 AM
To: Duross, Jeanne <Duross.Jeanne@epa.gov>
Cc: Morris, Madeline <morris.madeline@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Scott Pruitt Request to speak

Thanks Jeanne. I know you were trying to discuss part of this with me at one point when I was running down the hall, so let's connect in the morning. I had given Ryan a head's up we needed another day. Thanks, Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 12, 2017, at 3:28 PM, Duross, Jeanne <Duross.Jeanne@epa.gov> wrote:

Madeline,

Ex. 5 - Deliberative Process

We won't likely be able to resolve this today but should be in a position to do so tomorrow. I will be in touch as soon as possible.

Best,

Jeanne

From: Morris, Madeline
Sent: Wednesday, July 12, 2017 12:09 PM
To: Duross, Jeanne <Duross.Jeanne@epa.gov>; allende.pedro.m@dol.gov
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Scott Pruitt Request to speak

Hi Jeanne,

Just looping in someone from DOL; **Ex. 5 - Deliberative Process**

From: Morris, Madeline
Sent: Tuesday, July 11, 2017 4:08 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Scott Pruitt Request to speak

The speaking event is this weekend. I think Jeanne is looking into it as well.

From: Fugh, Justina
Sent: Tuesday, July 11, 2017 4:06 PM
To: Morris, Madeline <morris.madeline@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Scott Pruitt Request to speak

Ex. 6 - Personal Privacy and can't remember whether I closed the loop
or not. **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

I can follow up next week when I return. **Ex. 6 - Personal Privacy**
Justina

Sent from my iPhone

On Jul 11, 2017, at 11:44 AM, Morris, Madeline <morris.madeline@epa.gov> wrote:

Did we get an answer back on this?

From: Jackson, Ryan
Sent: Friday, July 7, 2017 10:46 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Morris, Madeline

<morris.madeline@epa.gov>

Subject: Fwd: Scott Pruitt Request to speak

Justina what would be the constraints in doing this?

Ryan Jackson

Chief of Staff

U.S. EPA

Ex. 6 - Personal Privacy

Begin forwarded message:

From: Kathleen Daly Rooney <Ex. 6 - Personal Privacy>

Date: July 7, 2017 at 10:42:49 AM EDT

To: Jackson.ryan@epa.gov

Subject: Scott Pruitt Request to speak

Good morning Ryan--

Attached is the official invitation for Administrator Pruitt to speak at the Maverick Pac Annual Conference in DC next weekend. As well, i have attached a Hatch Act memo that our legal team put together.

I know his schedule is crazy but it would be amazing if he could speak! The idea would be to have he and Administrator Acosta speak on Saturday evening at 6:30pm about their new experiences in the administration etc.

If saturday does not fit with his schedule-- we would love to find a time friday night or earlier saturday to hear from him.

Thanks RJ! hope all is well and really hoping that if he can speak it means i can hang out with you while he is there!!

Kathleen

To: Carin Walters[CWalters@conservative.org]
From: Minoli, Kevin
Sent: Thur 5/10/2018 4:46:28 PM
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Thank you. I will follow up if there is any additional information that we need. Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

-----Original Message-----

From: Carin Walters [mailto:CWalters@conservative.org]
Sent: Thursday, May 10, 2018 12:30 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Yes, that is correct.

Carin Walters
Director of CPAC & Events
American Conservative Union

-----Original Message-----

From: Minoli, Kevin [mailto:Minoli.Kevin@epa.gov]
Sent: Thursday, May 10, 2018 12:25 PM
To: Carin Walters <CWalters@conservative.org>
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Carin- Thank you. The invitation explains that "This is neither a political event, nor does it involve any form of advocacy." To confirm for the record, it is not only that they will not be any advocacy, but also that the Foundation is not a federally registered lobbyist. Is that correct? Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

-----Original Message-----

From: Carin Walters [mailto:CWalters@conservative.org]
Sent: Thursday, May 10, 2018 12:19 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Hi Kevin,

Thank you for speaking with me a few minutes ago. I wanted to confirm with you that the reception this

evening is hosted by the American Conservative Union Foundation (a 501c3 educational organization). I've attached the invitation clarifying that detail.

Please let me know if you need anything else.

Carin

Carin Walters
Director of CPAC & Events
American Conservative Union

-----Original Message-----

From: Minoli, Kevin [mailto:Minoli.Kevin@epa.gov]
Sent: Thursday, May 10, 2018 11:09 AM
To: Carin Walters <CWalters@conservative.org>
Subject: Invitation for Adm Pruitt at Tonight's Reception

Dear Ms. Walters- I am the Designated Agency Ethics Official at EPA and Adm Pruitt's Office reached out to us to evaluate how the ethics rules apply to this invitation. After some initial conversations here I wanted to see if you were able to share whether you have invited other political appointees and, if so, have they confirmed? We often benefit from connecting with our colleagues at other agencies and working through these issues consistently.

Thank you, Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040
Mobile: 202-297-6910

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 5/10/2018 8:10:16 PM
To: Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Fwd: Invitation for Adm Pruitt at Tonight's Reception

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Keith, Jennie" <Keith.Jennie@epa.gov>
Date: May 10, 2018 at 3:43:45 PM EDT
To: "Ford, Hayley" <ford.hayley@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>, "Hupp, Millan" <hupp.millan@epa.gov>
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Haley,

Given the new information, including my own correspondence with Ms. Walters of the ACU, I am confirming he may attend pursuant to the widely attended gathering gift exception. The event is hosted by the ACU's Foundation side of the house - a 501(c)(3). Therefore, the host of the event has changed, and this gift is no longer subject to the President's Ethics Pledge or the lobbyist gift prohibition. I determine that it's in the agency's interests that he attend as it will further agency operations and/or programs.

Please let me know if I may assist in any other way.
Jennie for OGC/Ethics

-----Original Message-----

From: Ford, Hayley
Sent: Thursday, May 10, 2018 1:25 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Thank you for this information Kevin! Jennie/Justina - would you be able to expeditiously determine if he is cleared to attend given this new information?

Thank you!

Hayley Ford
Deputy White House Liaison and Personal Aide to the Administrator Environmental Protection

Agency ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

-----Original Message-----

From: Minoli, Kevin

Sent: Thursday, May 10, 2018 12:55 PM

To: Keith, Jennie <Keith.Jennie@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: FW: Invitation for Adm Pruitt at Tonight's Reception

Hi Jennie and Hayley-

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Carin mentioned that the host is the ACU Foundation, a 501(c)(3), not ACU, which was on the initial inquiry. She sent the attached flyer for the event as well.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8064

-----Original Message-----

From: Carin Walters [<mailto:CWalters@conservative.org>]

Sent: Thursday, May 10, 2018 12:30 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Yes, that is correct.

Carin Walters

Director of CPAC & Events

American Conservative Union

-----Original Message-----

From: Minoli, Kevin [<mailto:Minoli.Kevin@epa.gov>]

Sent: Thursday, May 10, 2018 12:25 PM

To: Carin Walters <CWalters@conservative.org>

Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Carin- Thank you. The invitation explains that "This is neither a political event, nor does it involve any form of advocacy." To confirm for the record, it is not only that they will not be any advocacy, but also that the Foundation is not a federally registered lobbyist. Is that correct?

Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

-----Original Message-----

From: Carin Walters [<mailto:CWalters@conservative.org>]
Sent: Thursday, May 10, 2018 12:19 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Invitation for Adm Pruitt at Tonight's Reception

Hi Kevin,

Thank you for speaking with me a few minutes ago. I wanted to confirm with you that the reception this evening is hosted by the American Conservative Union Foundation (a 501c3 educational organization). I've attached the invitation clarifying that detail.

Please let me know if you need anything else.

Carin

Carin Walters
Director of CPAC & Events
American Conservative Union

-----Original Message-----

From: Minoli, Kevin [<mailto:Minoli.Kevin@epa.gov>]
Sent: Thursday, May 10, 2018 11:09 AM
To: Carin Walters <CWalters@conservative.org>
Subject: Invitation for Adm Pruitt at Tonight's Reception

Dear Ms. Walters- I am the Designated Agency Ethics Official at EPA and Adm Pruitt's Office reached out to us to evaluate how the ethics rules apply to this invitation. After some initial conversations here I wanted to see if you were able to share whether you have invited other political appointees and, if so, have they confirmed? We often benefit from connecting with our colleagues at other agencies and working through these issues consistently.

Thank you, Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040
Mobile: 202-297-6910

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 1/19/2018 3:23:34 AM
To: Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Re: NextEra

Matt- Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jan 18, 2018, at 9:24 PM, Leopold, Matt <Leopold.Matt@epa.gov> wrote:

Kevin- Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you, Matt

From: Leopold, Matt
Sent: Tuesday, January 16, 2018 7:25 PM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE: NextEra

Hi Sam, I appreciate the invite. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Regards, Matt

From: Dravis, Samantha
Sent: Monday, January 15, 2018 4:02 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>
Subject: NextEra

Anyone else around tomorrow at 2 to meet with NextEra Energy with me? Just a meet and greet. Thanks in advance if so.

To: Packard, Elise[Packard.Elise@epa.gov]; Leopold, Matt[Leopold.Matt@epa.gov]
From: Minoli, Kevin
Sent: Tue 3/20/2018 1:04:31 AM
Subject: Re: Ethics Approval: Events with VPOTUS

Ex. 5 - Deliberative Process

Kevin

Sent from my iPhone

On Mar 20, 2018, at 8:42 AM, Packard, Elise <Packard.Elise@epa.gov> wrote:

From: Leopold, Matt
Sent: Monday, March 19, 2018 7:33 PM
To: Packard, Elise
Subject: Fwd: Ethics Approval: Events with VPOTUS

Sent from my iPhone

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: March 19, 2018 at 7:02:10 PM EDT
To: "Leopold, Matt" <Leopold.Matt@epa.gov>
Subject: FW: Ethics Approval: Events with VPOTUS

From: Fugh, Justina
Sent: Monday, March 19, 2018 5:29 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: FW: Ethics Approval: Events with VPOTUS

Hi Hayley,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The rules for

Mr. Pruitt are very different than those for the Vice President, who is not subject to the Hatch Act. For Mr. Pruitt to attend, he must do so only in his personal capacity, and the organization cannot refer to him in any way with reference to his official title or position. He cannot be introduced or appear on any brochure or email as the EPA Administrator.

Please see my comments on the email you sent. I've copied Jeanne Duross, an ethics attorney, for her information as she is picking up Hatch Act as an area of specialty in our group. I've attached the Hatch Act ground rules and other documents prepared by OGC/Ethics as a reminder to us all.

YOU WROTE: The Administrator has been invited to travel to Atlanta next Friday with the Vice President on Air Force 2 and attend the 3 attached events. One of the events ("2018-03-23 VP Event Proposal Atlanta, GA") is an official tax reform event with no political or fundraising component.

Ex. 5 - Deliberative Process

The other 2 events attached (America First Action Roundtable & Georgia Republican Party dinner) are political events and I assume he would need to attend in his personal capacity. Can you review and give your guidance? If given clearance, he will attend these events.

JUSTINA: If he attends, it must be in his personal capacity only and absolutely cannot solicit, accept or receive any political contributions or engage in fundraising. Does he still want to attend? Let's coordinate so that I know when OGC/Ethics should write to Ann Pierce (America First Roundtable) and Carmen Bergman (Georgia Republican Party) with the Hatch Act ground rules.

The information below will be helpful in reviewing:

Ex. 5 - Deliberative Process

JUSTINA:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

JUSTINA:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- **America First Action Roundtable:** Small event, no formal speaking portion.
- **Georgia Republican Party Dinner:** Large dinner, have offered a speaking role if he'd like one (very brief). If you could provide guidance both on him speaking vs. not speaking (would assume if he's cleared to, that he will want to speak).

JUSTINA: He cannot use his EPA position, title or authority in connection with the political activity. The GA GOP needs to get our ground rules so that we can see who is being invited because he can't encourage or discourage the political activity of people directly regulated by EPA or use his EPA official title/authority in connection with the activity. And he can't ask for money at all.

- **POCs:** If you need to reach out to the event organizers, they are listed on the attached forms.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

JUSTINA: Let's coordinate.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ford, Hayley
Sent: Thursday, March 15, 2018 6:23 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>

Justina,

The Administrator has been invited to travel to Atlanta next Friday with the Vice President on Air Force 2 and attend the 3 attached events. One of the events ("2018-03-23 VP Event Proposal Atlanta, GA") is an official tax reform event with no political or fundraising component. The other 2 events attached (America First Action Roundtable & Georgia Republican Party dinner) are political events and I assume he would need to attend in his personal capacity. Can you review and give your guidance? If given clearance, he will attend these events.

The information below will be helpful in reviewing:

- Costs: Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

- **America First Action Roundtable:** Small event, no formal speaking portion.
- **Georgia Republican Party Dinner:** Large dinner, have offered a speaking role if he'd like one (very brief). If you could provide guidance both on him speaking vs. not speaking (would assume if he's cleared to, that he will want to speak).
- **POCs:** If you need to reach out to the event organizers, they are listed on the attached forms.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

<A1A ATLANTA Roundtable SP 03 23 18.docx>

<Georgia GOP.DOCX>

<2018-03-23 VP Event Proposal Atlanta, GA.DOCX>

<GROUND RULES FOR POLITICAL EVENTS.doc>

<HOW TO CALCULATE POLITICAL TRAVEL.doc>

<HOW TO REVIEW POLITICAL INVITATIONS.doc>

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 5/10/2018 3:25:39 AM
To: Leopold, Matt [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Re: Reception Invitation

Hi Matt-

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you, Kevin

From: Fugh, Justina
Sent: Wednesday, February 22, 2017 2:56 PM
To: Hale, Michelle
Cc: Jackson, Ryan; Minoli, Kevin
Subject: uh oh, I gave Ryan and the Administrator bad advice!

Hi Michelle,

I am writing to you so that you can please alert Ryan and the Administrator to the fact that I gave them incorrect Hatch Act advice. Mr. Pruitt will be speaking at CPAC on Saturday, and I had mistakenly determined that it is a political event. Earlier today, I confirmed with the Office of Special Counsel (the independent federal agency that interprets and enforces the Hatch Act) that they do not consider CPAC to be partisan. So it will be okay for the Administrator to attend the event in his official capacity, to be introduced as the EPA Administrator, and to allow subordinates to assist him with the event and in writing his speech for the event. I will be sure that the travel preparer realizes that this event is official, not political, and that EPA dollars can be spent in connection with the event.

I am very sorry for any inconvenience I have undoubtedly caused, but you know, it is easier to open the faucet from a dribble than to try to stop a gusher.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

From: Leopold, Matt
Sent: Wednesday, May 9, 2018 8:24 PM
To: Minoli, Kevin
Subject: RE: Reception Invitation

Ex. 5 - Deliberative Process

Matthew Z. Leopold

General Counsel

U.S. Environmental Protection Agency

From: Minoli, Kevin
Sent: Wednesday, May 9, 2018 7:00 PM
To: Leopold, Matt <Leopold.Matt@epa.gov>
Subject: RE: Reception Invitation

Hi Matt-

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

The OGE regs defining gifts has a specific exclusion for attendance at the event on the day (and only the day) you are speaking:

5 CFR 2635.203(b)(8)

Free attendance to an event provided by the sponsor of the event to:

(i) An employee who is assigned to present information on behalf of the agency at the event on any day when the employee is presenting;

Ex. 5 - Deliberative Process

Let me know if that leaves any questions unanswered. Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8064

From: Leopold, Matt
Sent: Wednesday, May 09, 2018 4:15 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: FW: Reception Invitation
Importance: High

Ex. 5 - Deliberative Process Thanks

From: Ford, Hayley
Sent: Wednesday, May 9, 2018 2:31 PM
To: Leopold, Matt <Leopold.Matt@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Reception Invitation
Importance: High

Hey Matt –

See below. ACU puts on CPAC every year and it hasn't been a problem for him to attend that in the past. They've invited him to a reception tomorrow evening at Matt Schlapp's house. Even if he doesn't eat or drink anything (besides maybe coffee), do you agree that he can't attend unless he pays? I'd really appreciate your attention to this.


Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022 

Cell: 202-306-1296



From: Keith, Jennie
Sent: Wednesday, May 9, 2018 12:34 PM
To: Ford, Hayley <ford.hayley@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Reception Invitation

Hi Haley,

I asked a follow up question yesterday morning while I was on the train. But now that I've reviewed this information more thoroughly and did the respective research, if the Administrator would like to attend he must pay for the gift (i.e., the reception). The American Conservative Union is a federally registered lobbyist and under the Trump Ethics Pledge, the applicable gift exception is not available, so thus, it's a prohibited gift.

If he would like to attend, he must pay, and the question to ask is the following: What is the cost/person? You may calculate this cost as a per-person cost estimate or by aggregating all tangible benefits (food, beverages, entertainment, gift bag, valet parking, etc.). How should payment be made?

Thanks!

Jennie for OGC/Ethics

From: Ford, Hayley
Sent: Tuesday, May 08, 2018 8:12 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Reception Invitation
Importance: High

Hi Jennie,

The below reception is on Thursday. Can you respond very soon so we can let them know? Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022



Cell: 202-306-1296

From: Ford, Hayley
Sent: Tuesday, May 1, 2018 12:08 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>
Subject: RE: Reception Invitation

Hi Jennie,

I received the additional information from ACU below in red regarding this event. I didn't think it appropriate to send our normal request form, as that has a bunch of irrelevant questions more targeted towards a speaking engagement. I included all of those that I believe you look at in making your determination.

Please let me know if you have additional information regarding this event. I look forward to your ethics guidance.

Thanks!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022



Cell: 202-306-1296

Hi Hayley,

See below for the answers in red!

Carin

Carin Walters

Director of CPAC & Events

American Conservative Union

From: Ford, Hayley [<mailto:ford.hayley@epa.gov>]

Sent: Monday, April 30, 2018 12:39 PM

To: Carin Walters <CWalters@conservative.org>

Subject: ACU Reception May 10

Hello Carin,

Administrator Pruitt received the invitation from Matt regarding the reception on May 10 and appreciates him extending it. I need to clear these types of events through Ethics to ensure we are buttoned up before he attends. Would you be able to provide a few more details so that they can complete a proper review? I've outlined the questions below.

Thank you and please let me know if you need any clarification!


- Purpose of the Event (brief description) This is a private reception taking place at the home of Matt Schlapp, with VIPs and members of the board of directors of the American Conservative Union.
- Event Audience (size and brief description, e.g. 100 in attendance made up of attorneys, business owners, students, industry, etc.) Primarily VIPs, Conservative Activists and ACU Board Members. Approximately 100 in attendance.
- Event Host(s)/Organizer(s) American Conservative Union and Matt Schlapp
- Host(s)'s Relationship to EPA Administrator Pruitt spoke at CPAC 2018
- Run of Show / Agenda Informal reception, taking place from 5-7pm. No formal programming will be taking place.
- Security Contact n/a
- Is the host of the event a registered 501(c)(3), (4), or has a 527 Political Action Committee (PAC)? The ACU is a registered 501(c)(4)
- Will there be a "gift" presented to the Administrator? If so, what is the US currency value of the gift? No
- Will a meal be provided, and if so, what is the US currency value? No meal, just light hors d'oeuvres

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022 

Cell: 202-306-1296



From: Ford, Hayley
Sent: Thursday, April 26, 2018 11:40 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>
Subject: Re: Reception Invitation

Yes absolutely. Will have them complete. Thanks!

Sent from my iPhone

On Apr 26, 2018, at 11:32 AM, Keith, Jennie <Keith.Jennie@epa.gov> wrote:

Hi Haley,

Did the host complete an event request form? If not, would you have the host complete it? It gives me the information I need to be able to make a determination.

Thanks!

Jennie for OGC/Ethics

From: Ford, Hayley

Sent: Wednesday, April 25, 2018 9:28 AM

To: Keith, Jennie <Keith.Jennie@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>

Subject: FW: Reception Invitation

Hello Jennie,

Could you please review the below invitation for the Administrator?


Thank you!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022 

Cell: 202-306-1296



From: Jackson, Ryan

Sent: Wednesday, April 25, 2018 8:44 AM

To: Hupp, Millan <hupp.millan@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>

Subject: FW: Reception Invitation

From: Matt Schlapp <MSchlapp@conservative.org>

Date: April 24, 2018 at 5:22:09 PM EDT

Subject: Reception Invitation

Ryan,

The American Conservative Union and our board of directors will be hosting a private cocktail reception next month. We would love if Administrator Pruitt could attend as a special guest.

Thursday, May 10, 5:00 PM – 7:00 PM

Ex. 6 - Personal Privacy

Please RSVP to Carin Walters (cwalters@conservative.org) for more details.

Matt

To: Leopold, Matt[Leopold.Matt@epa.gov]
From: Minoli, Kevin
Sent: Thur 4/19/2018 4:03:27 PM
Subject: Fwd: Ethics Approval: Kentucky Derby with Governor Bevin
[Scott Pruitt Derby Invitation Letter.pdf](#)
[ATT00001.htm](#)
[Gala 2018 Singe Sheet.pdf](#)
[ATT00002.htm](#)
[Derby Timeline 2018 Draft.docx](#)
[ATT00003.htm](#)

FYI

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Keith, Jennie" <Keith.Jennie@epa.gov>
Date: April 19, 2018 at 11:29:00 AM EDT
To: "Ford, Hayley" <ford.hayley@epa.gov>
Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>, "Hupp, Millan" <hupp.millan@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>, "Keith, Jennie" <Keith.Jennie@epa.gov>
Subject: Ethics Approval: Kentucky Derby with Governor Bevin

Hi Haley,

OGC/Ethics advises the scheduling office to decline this invitation because the event is considered a prohibited gift and, as such, no agency employee can accept it. See the following for more complete details. If the official would like to pay to attend the events, please let us know so that we can obtain further details about cost (hotel) and process for payment. See the following for more complete details.

Best, Jennie for OGC/Ethics

Acceptance of Free Attendance

The gifts offered are a series of events taking place before and after the Kentucky Derby, as well as attending the sporting event itself. These gifts are offered by the Governor's Office of Kentucky. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source – typically a person either regulated by or seeking to do business with the EPA. In this instance, this is a gift offered by a prohibited source (State of Kentucky) and also because of the employee's official position. There are numerous exceptions to this rule which allow employees to accept some gifts; however, based on the information presented, none of the gift exceptions are applicable to these circumstances. If you have any questions or concerns, please feel free to contact OGC/Ethics.

Payment for the Gift

When an official pays the retail value of a gift, the item no longer is a gift nor subject to the gift rules.

From: Ford, Hayley
Sent: Wednesday, April 18, 2018 3:22 PM

To: Keith, Jennie <Keith.Jennie@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Hupp, Millan <hupp.millan@epa.gov>
Subject: FW: Ethics Approval: Kentucky Derby with Governor Bevin

Hi all – Just wanted to check in on this to see if there was an update. Thanks!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency
ford.hayley@epa.gov
Phone: 202-564-2022
Cell: 202-306-1296

From: Ford, Hayley
Sent: Monday, April 16, 2018 10:25 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Millan Hupp (hupp.millan@epa.gov) <hupp.millan@epa.gov>
Subject: Ethics Approval: Kentucky Derby with Governor Bevin

Jennie and Justina,

Administrator Pruitt and Mrs. Pruitt were invited by Kentucky Governor Matt Bevin to be his guests at the Kentucky Derby weekend May 4-5. Attached is the invitation letter and then we asked for more details of the agenda items (their response below and attached). The Pruitt's would pay for their own airfare to attend, but from the below, the Governor's office has offered the below events/tickets/lodging as gifts. Can you please advise if the Pruitts are allowed to accept these or if they attended, would they have to pay for all of these items themselves?

They haven't yet decided if they will go, but are waiting for ethics guidance first.

Thank you!

Please note: The Pruitt's aren't expected to pay for anything while attending the Derby. The following costs are for information only.

Derby Eve Gala: \$200 per person
The Derby Gala is Friday night, May 4 from 7:00 – 11:00p (Invitation is attached), dress is Black Tie

Overnight Accommodations: No cost. Bevin grounds, Frankfort, Kentucky

Derby tickets: \$4,142 for 2 tickets, \$2,071 ea.
The Derby tickets/seats are located on the 6th floor of Churchill Downs known as Millionaire's Row (all food and beverage are included in the price of the ticket). Table of 8. The Governor and First Lady will be seated at your table, but will have to step away several times for Derby Day obligations.

The timeline is still under review, but I have attached a very rough draft. More information will be forthcoming in the following days.

Derby Timeline 2018

DRAFT

Friday, May 4, 2018

7:00 PM **Derby Gala** (Governor's Mansion)
704 Capital Avenue
Frankfort, KY 40601

11:00 PM

Derby Gala concludes

Saturday, May 5, 2018

11:30 AM Expect to arrive at the Track, transportation will be provided via Security. You will leave from Frankfort, KY.

>6:50 PM Running of the 144th Kentucky Derby

After Derby Guests re-board buses at Clubhouse Gate 10

>7:45 PM Depart Churchill Down~ for
Jim Beam American Stillhouse, Clermont, KY with KSP escort

>8:15 PM Arrive at Jim Beam American Stillhouse for **Dinner**

>10:30 PM Depart **Clermont** as a group with KSP escorts.

>11:45 PM Arrive in Frankfort, KY

Please review the attached information and let me know if you have any questions. We look forward to hosting Administrator Pruitt and his guest.

Karen Yates

Executive Assistant

Office of the Secretary

Cabinet for Economic Development

Office: 502-782-1926

karen.yates@ky.gov

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

Derby Timeline 2018

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*Governor Matthew Bevin &
First Lady Glenna Bevin*

cordially invite you to the

Derby Eve Gala

Cocktail Reception
Friday, May 4th, 2018
7:00-11:00pm

Governor's Mansion
704 Capitol Avenue
Frankfort, Kentucky

Black Tie Optional

Please RSVP promptly & no later than April 20th to
erin.warford@ky.gov

Include your name, address, and phone number,
as well as the names of any and all guests.

*Please note that no paper tickets will be issued.
Check-in upon arrival to the event is required.
Tickets are non-transferable.*



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

MATTHEW G. BEVIN
GOVERNOR

700 CAPITOL AVENUE
SUITE 100
FRANKFORT, KY 40601
(502) 564-2611
FAX: (502) 564-2517

February 27, 2018

Mr. Scott Pruitt
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20202

Dear Scott:

The 144th world-renowned Kentucky Derby will be held on Saturday, May 5, 2018, in Louisville, Kentucky. This year's "Run for the Roses" will be the highlight of a fun-filled weekend in the Commonwealth. Glenna and I invite you and Marlyn to be our honored guests and share in the excitement of this unique and festive time of the year in Kentucky.

Our 2018 Derby weekend will kick-off on Friday evening, May 4, with a black-tie Derby Eve Celebration at the Governor's Mansion. We will showcase some of the best products that Kentucky has to offer from our signature bourbon, food, and wine industries.

On Saturday, May 5, our guests will travel to Louisville, where we will enjoy an afternoon of racing on Millionaire's Row at Churchill Downs. Before the running of the Derby, also known as the "Most Exciting Two Minutes in Sports," the horses step onto the track for the post parade and 160,000 people sing along as the University of Louisville Marching Band strikes up Stephen Foster's, "My Old Kentucky Home."

At the conclusion of the race, we will travel to Jim Beam American Stillhouse for dinner and a brief tour where you may assist with filling your own bottle of Knob Creek bourbon.

We hope that you will be able to join us for what is sure to be a most memorable weekend in Kentucky. Glenna and I look forward to hearing from you.

Sincerely,

Matthew G. Bevin
Governor

To: Leopold, Matt[Leopold.Matt@epa.gov]; Daniel Schneider[DSchneider@conservative.org]
From: Minoli, Kevin
Sent: Thur 5/10/2018 4:48:46 PM
Subject: RE: Event

Hi Matt and Dan- I called Dan but was connected with Carin. She clarified that the host is the ACU Foundation, which is a 501(c)(3) and not a registered lobbyist. I will share that with folks here and we will re-analyze it with the accurate information regarding the host. Kevin

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

-----Original Message-----

From: Leopold, Matt
Sent: Thursday, May 10, 2018 11:39 AM
To: Daniel Schneider <DSchneider@conservative.org>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Event
Importance: High

Hi Dan, I've copied my Designated Agency Ethics Official, Kevin Minoli, who may reach out to you to gather more information. I'll leave it to him to address.

Regards,

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

-----Original Message-----

From: Daniel Schneider [mailto:DSchneider@conservative.org]
Sent: Thursday, May 10, 2018 11:26 AM
To: Matt Schlapp <mschlapp@covestrategies.com>; Leopold, Matt <Leopold.Matt@epa.gov>
Subject: RE: Event

Matt,
I'm the executive director at ACU Foundation. I can help with your questions. Give me a call at:

Work: 202-347-9388

Cell: Ex. 6 - Personal Privacy

-----Original Message-----

From: Matt Schlapp [mailto:mschlapp@covestrategies.com]
Sent: Thursday, May 10, 2018 11:08 AM
To: Leopold, Matt <Leopold.Matt@epa.gov>; Daniel Schneider <DSchneider@conservative.org>
Subject: Re: Event

Hey matt. Dan Schneider can help

Sent from my iPhone

> On May 10, 2018, at 9:51 AM, Leopold, Matt <Leopold.Matt@epa.gov> wrote:
>
> Hi Matt, I'm the General Counsel for EPA. I'm trying to help gather information about the event tonight
for our ethics teams review.
>
> Are you available for a call?
>
> Matt Leopold
>
> Sent from my iPhone

To: Schwab, Justin[schwab.justin@epa.gov]
From: Minoli, Kevin
Sent: Wed 5/24/2017 11:50:48 PM
Subject: Re: Region 8 EPA/State Senior Leaders Meeting

Got it.

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 24, 2017, at 5:33 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

On May 24, 2017, at 5:18 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Ex. 5 - Deliberative Process

Sent from my iPhone

Begin forwarded message:

From: "Nitsch, Chad" <Nitsch.Chad@epa.gov>
Date: May 24, 2017 at 4:55:39 PM EDT
To: "Wagner, Kenneth" <wagner.kenneth@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>
Cc: "Cheatham-Strickland, Latonia" <Cheatham-Strickland.Latonia@epa.gov>, "Patrick, Monique" <Patrick.Monique@epa.gov>
Subject: FW: Region 8 EPA/State Senior Leaders Meeting

Ken and Justin,

Here is a draft agenda for the R8 All States meeting on June 28th and 29th . They've allotted time for opening remarks for both of you. Please let me know if Justin decides to go, so we can inform R8 and get the Justin a travel card.

Thank you,

Chad Nitsch
State and Regional Partnerships | Office of the Administrator
Environmental Protection Agency
202-564-4714

From: Jenkins, Laura Flynn
Sent: Wednesday, May 24, 2017 4:42 PM

To: Nitsch, Chad <Nitsch.Chad@epa.gov>; Barbery, Andrea <Barbery.Andrea@epa.gov>
Subject: Region 8 EPA/State Senior Leaders Meeting

Chad and Andrea:

Robin Richard asked Deb to have me send this to you. It's still being vetted through our State Directors but will give you a sense of what is likely to be discussed and when we proposed to have Ken (and Justin??) speak. I haven't yet had a chance to collect input on carry-over issues from Ken's last visit but hope to get those to you by COB on Friday.

Thanks,

Laura Flynn Jenkins
Chief of Staff
USEPA Region 8
1595 Wynkoop, 8RA
Denver, CO 80202
Land Line: 303-312-6256
Cell: 720-519-5504
Email: Jenkins.Laura@epa.gov

<EPA-State June2017 Agenda.docx>